

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Moody, Ivery, and Archie

125 A.3d 1 (Pa. 2015) · No. 47, 48, and 49 EAP 2013 · Decided October 27, 2015

SUMMARY

This is a concurring opinion in a consolidated Pennsylvania Supreme Court appeal concerning summary direct criminal contempt arising from a courtroom brawl. Justice Baer agreed that summary contempt was proper when the judge personally observed the misconduct, but emphasized that conduct not observed by the judge generally requires indirect-contempt procedures and ordinary due process protections.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Baer
JURISDICTION	Pennsylvania
DECIDED	October 27, 2015
DOCKET	47, 48, and 49 EAP 2013
DISPOSITION	other
PROCEDURAL POSTURE	The Commonwealth appealed consolidated Superior Court judgments that vacated and remanded judgments of sentence for direct criminal contempt entered by the Philadelphia Municipal Court.
PRECEDENTIAL VALUE	Published concurring opinion accompanying a precedential Supreme Court of Pennsylvania decision
PARTIES	Commonwealth of Pennsylvania v. Katrina Moody, Barbara Ivery, Bernadette Archie

TOPICS

criminal procedure procedural due process due process appellate procedure

PRACTICE AREAS

criminal procedure constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether conduct constituting criminal contempt may be punished summarily as direct criminal contempt when the conduct occurred in the judge's direct presence and was actually observed by the judge.
2. Whether misconduct occurring outside the judge's observation must instead be prosecuted as indirect criminal contempt with notice, an opportunity to defend, counsel, and the opportunity to present testimony and other evidence.

HOLDINGS

1. A summary proceeding for direct criminal contempt is proper when the contemptuous misconduct occurs in the direct presence or immediate view of the judge, the judge actually observes the essential elements of the misconduct, and summary punishment is necessary to restore courtroom order and vindicate the court's authority.
2. When the judge did not personally observe the essential elements of the alleged misconduct and must rely on statements or testimony from others, the matter is indirect criminal contempt and due process requires notice of the charges, a reasonable opportunity to defend or explain, representation by counsel, and an opportunity to testify and call witnesses.

KEY QUOTATIONS

“Where testimony is required for the court to determine what happened before it can make a finding of contempt, a different scenario presents itself.” (at 2)

“The gravamen of the distinction between direct and indirect criminal contempt is quite simply whether the contempt occurs in the direct presence of the judge – whether he actually saw or heard the contemptuous conduct – regardless of the proximity of the conduct to the judge.” (at 3)

“Because the misconduct at issue occurred in the view of the judge, I agree with the majority’s assessment that a summary proceeding for direct criminal contempt was proper in this instance.” (at 4)

FACTUAL BACKGROUND

A brawl involving the appellees and the defendant's mother occurred in the gallery of the courtroom within the immediate view of the bench. The trial judge stated that he observed the belligerent conduct, both during the summary contempt proceeding and later in the Rule 1925(a) opinion. The concurrence therefore viewed the conduct as directly observed by the judge and subject to summary direct-criminal-contempt procedures.

PROCEDURAL HISTORY

The Philadelphia Municipal Court entered judgments of sentence against Moody, Ivery, and Archie on May 6, 2011. The Superior Court entered judgments on May 15, 2012, vacating and remanding those sentences; reargument was denied on July 18, 2012. The Commonwealth appealed to the Supreme Court of Pennsylvania.

DISPOSITION

other

CASES CITED

- Pounders v. Watson, 521 U.S. 982, 988 (1997)
- In re Oliver, 333 U.S. 257, 275 (1948)
- Cooke v. United States, 267 U.S. 517, 535 (1925)
- Ex parte Savin, 131 U.S. 267, 277 (1889)
- Commonwealth v. Garrison, 386 A.2d 971, 979 (Pa. 1978)
- United States v. Wilson, 421 U.S. 309, 315 n.6 (1975)
- Commonwealth v. Falana, 696 A.2d 126, 127-29 (Pa. 1997)
- Crozer-Chester Medical Center v. Moran, 560 A.2d 133, 136 (Pa. 1989)

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