

COURT OF APPEALS OF MARYLAND

Jamel Clark v. State of Maryland

Clark v. State, 473 Md. 607 (2021) · No. No. 23, September Term 2020 · Decided May 27, 2021

SUMMARY

The Maryland Court of Appeals held that convictions for possession of an assault weapon and possession of a firearm by a convicted drug felon do not merge for sentencing under the required evidence test. The court also held that the rule of lenity did not require merger because the statutes served distinct purposes, as shown by their text, context, and legislative history.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	McDonald, J.; Barbera, C.J.; Watts, J.; Hotten, J.; Getty, J.; Booth, J.; Biran, J.
JURISDICTION	Maryland
DECIDED	May 27, 2021
DOCKET	No. 23, September Term 2020
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a jury convicted Clark of possession of an assault weapon and possession of a firearm by a convicted drug felon, the Circuit Court for Baltimore City imposed consecutive maximum sentences. The Court of Special Appeals affirmed. The Court of Appeals granted certiorari to decide whether the convictions merged for sentencing under the required evidence test or the rule of lenity.
STANDARD OF REVIEW	Whether convictions merge for sentencing under the required evidence test or the rule of lenity is a question of law reviewed without deference.
PRECEDENTIAL VALUE	Published and precedential Maryland appellate decision
PARTIES	Jamel Clark v. State of Maryland

TOPICS

- sentencing
- criminal procedure
- statutory interpretation
- rule of lenity
- double jeopardy

PRACTICE AREAS

criminal law

criminal procedure

sentencing

statutory interpretation

QUESTIONS PRESENTED

1. Whether possession of an assault weapon under Maryland Criminal Law § 4-303 merges for sentencing with possession of a firearm by a convicted drug felon under Maryland Criminal Law § 5-622 under the required evidence test.
2. Whether the firearm-disqualification statute is a multi-purpose criminal statute requiring the court to consider only the particular firearm modality proved in this case.
3. Whether the absence of an express anti-merger provision requires merger of the convictions.
4. Whether the rule of lenity requires merger because the statutes do not clearly authorize separate sentences.

HOLDINGS

1. The convictions for possession of an assault weapon and possession of a firearm by a convicted drug felon do not merge for sentencing under the required evidence test because each offense requires proof of an element that the other does not.
2. Maryland Criminal Law § 5-622 is not a multi-purpose criminal statute whose elements vary according to the particular type of firearm proved.
3. The absence of an express statutory anti-merger provision does not prevent a court from imposing consecutive sentences for convictions based on the same facts.
4. The rule of lenity does not require merger because the text, context, and legislative history of the two statutes demonstrate distinct legislative purposes and resolve the question of whether separate sentences are permitted.

KEY QUOTATIONS

“Accordingly, it was within the discretion of the Circuit Court to impose consecutive sentences for the two convictions.” (at 20)

“Both statutes address gun violence and gun possession, but for different reasons.” (at 19)

“The rule of lenity is a rare tool of last resort and is not a means for determining or defeating legislative intent.” (at 19)

FACTUAL BACKGROUND

In March 2018, police searched Clark's girlfriend's home pursuant to a warrant and recovered a .45-caliber Encom semiautomatic assault pistol. Clark had previously been convicted of a felony drug offense and was disqualified from possessing firearms. A jury convicted him of possessing an assault weapon and possessing a firearm as a convicted drug felon, based on possession of the same weapon.

PROCEDURAL HISTORY

Clark was indicted in the Circuit Court for Baltimore City on six firearm- and ammunition-related charges. Three counts were nolle prossed before trial; the jury convicted him of possession of an assault weapon and possession of a firearm by a person disqualified because of a prior felony drug conviction, and acquitted him of possessing ammunition. The circuit court imposed consecutive sentences totaling eight years. The Court of Special Appeals affirmed, and the Court of Appeals affirmed that judgment.

DISPOSITION

affirmed

CASES CITED

- Brooks v. State, 439 Md. 698, 737 (2014)
- Nicolas v. State, 426 Md. 385, 401-09 (2012)
- Blockburger v. United States, 284 U.S. 299 (1932)
- State v. Lancaster, 332 Md. 385, 391-92 (1993)
- Missouri v. Hunter, 459 U.S. 359 (1983)
- Nightingale v. State, 312 Md. 699, 703-08 (1988)
- Abeokuto v. State, 391 Md. 289, 353-55 (2006)
- United Bank v. Buckingham, 472 Md. 407, 424-25 (2021)
- Pye v. State, 397 Md. 626, 630-37 (2007)
- Holbrook v. State, 364 Md. 354, 373-75 (2001)
- Jones v. State, 357 Md. 141, 163-68 (1999)
- Oglesby v. State, 441 Md. 673, 681, 688-99 (2015)
- Gardner v. State, 420 Md. 1, 17 (2011)
- GEICO v. Insurance Commissioner, 332 Md. 124, 132 (1993)
- Frazier v. State, 318 Md. 597 (1990)
- Carter v. State, 374 Md. 693, 715-23 (2003)

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