

DISTRICT OF COLUMBIA COURT OF APPEALS

Bradley v. United States

856 A.2d 1157 (D.C. 2004) · Decided September 2, 2004

SUMMARY

The District of Columbia Court of Appeals affirmed Larry R. Bradley’s convictions for simple assault and attempted second-degree cruelty to children arising from the beating of his eight-year-old son. The court held that the offenses did not merge under the Blockburger test and that the rule of lenity did not require concurrent sentences. The court also rejected Bradley’s Fifth Amendment due process and Sixth Amendment speedy-trial claims based on the pre-arrest and post-arrest delays.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Farrell; Nebeker; Washington
JURISDICTION	District of Columbia
DECIDED	September 2, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bradley appealed convictions after a bench trial for simple assault and attempted second-degree cruelty to children, arguing that the convictions merged, that the rule of lenity barred consecutive sentences, and that pretrial delay violated his Fifth and Sixth Amendment rights.
STANDARD OF REVIEW	The merger and double-jeopardy issue was reviewed de novo. The unpreserved constitutional speedy-trial and due-process claims were reviewed more plenarily than the usual plain-error standard.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Larry R. Bradley v. United States

TOPICS

- double jeopardy
- sentencing
- speedy trial
- due process
- criminal procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law
- appellate practice

QUESTIONS PRESENTED

1. Whether simple assault merges with attempted second-degree cruelty to children under the Double Jeopardy Clause and D.C. Code § 23-112.
2. Whether the rule of lenity barred consecutive sentences for simple assault and attempted second-degree cruelty to children.
3. Whether the approximately four-and-one-half-month period between Bradley's arrest and trial violated the Sixth Amendment right to a speedy trial.
4. Whether the approximately sixteen-month period between the offense and Bradley's arrest violated Fifth Amendment due process because of pre-arrest delay.

HOLDINGS

1. Simple assault and attempted second-degree cruelty to children are separate and distinct offenses and do not merge because each offense requires proof of an element that the other does not.
2. The rule of lenity did not require concurrent sentences because the offenses were separate and distinct and D.C. Code § 23-112 established clear legislative intent to permit consecutive sentences.
3. The four-and-one-half-month period between Bradley's arrest and trial did not violate his Sixth Amendment right to a speedy trial.
4. Bradley failed to establish a Fifth Amendment due-process violation from the sixteen-month pre-arrest delay because he did not show actual, severe prejudice or unjustified governmental conduct that was reckless or intentional.

KEY QUOTATIONS

“'[W]here the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one is whether each provision requires proof of a fact which the other does not.'” (856 A.2d at 1161)

“A defendant's Sixth Amendment right to a speedy trial applies only to the period of time between arrest or formal indictment and trial.” (856 A.2d at 1163)

“Because the record does not support a finding that the government deliberately sought to hinder the defense or acted recklessly in failing to arrest Bradley in a timely manner, and because Bradley was not severely prejudiced by the delay, we do not find a due process violation in this case.” (856 A.2d at 1165)

FACTUAL BACKGROUND

After Bradley's eight-year-old son had fought with another child at school, the child's mother asked Bradley to discipline him. Bradley took the child into a bedroom, struck him repeatedly with a closed fist, and kicked him after he fell, causing a split lip and numerous bruises. The trial court credited the child's account, found corroboration in medical evidence, and rejected Bradley's claim that he could not remember the incident.

PROCEDURAL HISTORY

The trial court convicted Bradley of simple assault and attempted second-degree cruelty to children arising from the beating of his eight-year-old son and imposed consecutive sentences. Bradley appealed. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Byrd v. United States, 598 A.2d 386 (D.C. 1991) (en banc)
- North Carolina v. Pearce, 395 U.S. 711, 717 (1969)
- Albernaz v. United States, 450 U.S. 333, 334 (1981)
- Blockburger v. United States, 284 U.S. 299, 304 (1932)
- York v. United States, 803 A.2d 1009, 1012 (D.C. 2002)
- Nixon v. United States, 730 A.2d 145, 151, 153 (D.C. 1999)
- Spain v. United States, 665 A.2d 658, 662 n. 5 (D.C. 1995)
- Mungo v. United States, 772 A.2d 240, 245 (D.C. 2001)
- Ruffin v. United States, 642 A.2d 1288, 1295 (D.C. 1994)
- Smith v. United States, 813 A.2d 216, 220 n. 6 (D.C. 2002)
- Newby v. United States, 797 A.2d 1233, 1241 (D.C. 2002)
- Robinson v. United States, 506 A.2d 572, 574 (D.C. 1986)
- Williamson v. United States, 445 A.2d 975, 978 (D.C. 1982)
- Young v. United States, 745 A.2d 943 (D.C. 2000)
- Anthony v. United States, 361 A.2d 202, 205 (D.C. 1976)
- Jones v. United States, 401 A.2d 473, 475-76 (D.C. 1979)
- Coates v. United States, 705 A.2d 1100, 1104 (D.C. 1998)
- United States v. Alston, 412 A.2d 351, 355 (D.C. 1980) (en banc)
- United States v. Marion, 404 U.S. 307, 320-21 (1971)
- United States v. Lovasco, 431 U.S. 783, 788-89 (1977)
- Graves v. United States, 490 A.2d 1086, 1090-93 (D.C. 1985) (en banc)
- Dickerson v. United States, 650 A.2d 680, 684 (D.C. 1994)
- District of Columbia v. Cruz, 828 A.2d 181, 183 (D.C. 2003)
- Lee v. United States, 668 A.2d 822, 833 n. 26 (D.C. 1995)
- In re S.G., 581 A.2d 771, 774-75 (D.C. 1990)
- Asbell v. United States, 436 A.2d 804, 812 (D.C. 1981)
- Harrison v. United States, 528 A.2d 1238, 1239 (D.C. 1987)
- United States v. Day, 697 A.2d 31, 34 (D.C. 1997)
- Dahl Robinson v. United States, 478 A.2d 1065, 1066 (D.C. 1984)

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