

SUPREME COURT OF IOWA

Brian James Maxwell v. Iowa Department of Public Safety

Maxwell · No. No. 16-1290 · Decided October 20, 2017

SUMMARY

The Iowa Supreme Court held that a defendant convicted of a registrable sex offense was required to register under Iowa Code chapter 692A while free on an appeal bond during his direct appeal. The court concluded that the appeal and bond did not reverse or set aside the conviction, and that release on the appeal bond constituted a release from incarceration triggering registration. The court affirmed the district court’s decision upholding the Iowa Department of Public Safety’s determination.

CASE DETAILS

COURT	Supreme Court of Iowa
JURISDICTION	Iowa
DECIDED	October 20, 2017
DOCKET	No. 16-1290
DISPOSITION	affirmed
PROCEDURAL POSTURE	Maxwell sought judicial review under Iowa Code chapter 17A of the Iowa Department of Public Safety’s determination that he was required to register as a sex offender while his direct appeal from the underlying conviction was pending and he was free on an appeal bond. The Iowa District Court for Polk County upheld the agency’s determination. The Supreme Court of Iowa retained the appeal and reached the merits under the public-interest exception to mootness.
STANDARD OF REVIEW	Review for correction of errors at law because chapter 692A does not clearly vest the Department of Public Safety with interpretive authority.
PRECEDENTIAL VALUE	Published opinion; precedential value under Iowa law is not otherwise specified in the source.
PARTIES	Brian James Maxwell v. Iowa Department of Public Safety

TOPICS

- statutory interpretation
- administrative law
- judicial review of agency action
- mootness
- appellate procedure

PRACTICE AREAS

administrative law

statutory interpretation

criminal procedure

appellate procedure

sex offender registration

QUESTIONS PRESENTED

1. Whether a defendant convicted of a registrable sex offense must register under Iowa Code chapter 692A while a direct appeal is pending and the defendant is free on an appeal bond.
2. Whether release on an appeal bond constitutes a "release from incarceration" under Iowa Code section 692A.103(1)(c).
3. Whether the court should reach the otherwise potentially moot registration issue under the public-interest exception to mootness.

HOLDINGS

1. The court reached the merits under the public-interest exception to the mootness doctrine because the issue was one of public importance likely to recur and the decision could still have practical consequences for Maxwell.
2. A defendant convicted of a registrable sex offense who resides, works, or attends school in Iowa must register upon conviction and release on bond during a direct appeal, unless the conviction is reversed or otherwise set aside. An appeal or appeal bond does not delay the registration requirement.
3. Release on an appeal bond constitutes a "release from incarceration" under Iowa Code section 692A.103(1)(c), even when the defendant had not physically entered custody before posting the bond.

KEY QUOTATIONS

"On our review, we hold the defendant was required to register as a sex offender under section 692A.103(1) upon his conviction of the sex offense and release on bond, notwithstanding his appeal." (at 2-3)

"The stay of execution on his criminal judgment during his appeal did not delay the automatic administrative registration requirement for convicted sex offenders, and his release on the appeal bond constituted a 'release from incarceration' within the meaning of section 692A.103(1)." (at 3)

"We reach the same conclusion under section 692A.103(1)(c) (2015)—release means the antithesis of incarceration and includes release on an appeal bond." (at 12)

"Thus, no execution on the judgment of conviction is necessary to trigger placement on the sex offender registry." (at 14)

FACTUAL BACKGROUND

Maxwell was convicted in a nonjury trial of lascivious conduct with a minor under Iowa Code section 709.14 and received a one-year sentence, with the remainder suspended after 120 days, plus a ten-year special sentence under section 903B.2. On the day of sentencing, he appealed and posted an appeal bond, remaining free and never having been incarcerated or placed on probation. DPS nevertheless required him to register as a sex

offender, and while the registration issue was pending he was charged with violating chapter 692A residency restrictions. His underlying conviction was later affirmed on direct appeal.

PROCEDURAL HISTORY

Maxwell was convicted of lascivious conduct with a minor and sentenced to incarceration followed by probation, along with a special sentence. He filed a direct appeal and posted an appeal bond, remaining free rather than serving the sentence. DPS required him to register, and the district court upheld that determination after correcting a factual error concerning whether Maxwell had served time or begun probation. The court of appeals later affirmed the underlying conviction, further review was denied, and the Supreme Court of Iowa affirmed the district court's ruling in this separate judicial-review appeal.

DISPOSITION

affirmed

CASES CITED

- State v. Maxwell, No. 15-1392, 2016 WL 6652361, at *1, *13 (Iowa Ct. App. Nov. 9, 2016)
- Dykstra v. Iowa District Court, 783 N.W.2d 473, 477 n.2 (Iowa 2010)
- Breeden v. Iowa Department of Corrections, 887 N.W.2d 602, 604 n.3 (Iowa 2016)
- SZ Enterprises, LLC v. Iowa Utilities Board, 850 N.W.2d 441, 449 (Iowa 2014)
- Hawkeye Land Co. v. Iowa Utilities Board, 847 N.W.2d 199, 208-09 (Iowa 2014)
- In re A.J.M., 847 N.W.2d 601, 605 (Iowa 2014)
- State v. Erbe, 519 N.W.2d 812, 815 (Iowa 1994)
- State v. Iowa District Court, 843 N.W.2d 76, 81 (Iowa 2014)
- State v. Reiter, 601 N.W.2d 372, 373 (Iowa 1999) (per curiam)
- Employers Mutual Casualty Co. v. Van Haaften, 815 N.W.2d 17, 25 (Iowa 2012)
- Peterson v. Eitzen, 173 N.W.2d 848, 850 (Iowa 1970)
- Schilling v. Iowa Department of Transportation, 646 N.W.2d 69, 73 (Iowa 2002)
- Maguire v. Fulton, 179 N.W.2d 508, 512 (Iowa 1970)
- State v. Beach, 630 N.W.2d 598, 600 (Iowa 2001)
- Farmers Cooperative Co. v. DeCoster, 528 N.W.2d 536, 539 (Iowa 1995)
- In re S.M.M., 558 N.W.2d 405, 408 (Iowa 1997)
- United States v. Yelloweagle, 643 F.3d 1275, 1277 (10th Cir. 2011)
- Starkey v. Oklahoma Department of Corrections, 305 P.3d 1004, 1032 n.4 (Okla. 2013) (Winchester, J., dissenting)
- State v. Friend, 212 Iowa 136, 142, 236 N.W. 20, 23 (1931)
- State v. Bullock, 638 N.W.2d 728, 735 (Iowa 2002)
- Kruse v. Iowa District Court, 712 N.W.2d 695, 699 (Iowa 2006)

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