

SUPREME COURT OF ARKANSAS

Mason v. Hobbs

2015 Ark. 20 (Ark. 2015) · No. CV-14-273 · Decided January 22, 2015

SUMMARY

The Supreme Court of Arkansas affirmed dismissal of Gary J. Mason’s petition for declaratory judgment and writ of mandamus concerning his parole eligibility. The court held that Arkansas Code Annotated section 16-93-611 required Mason to serve seventy percent of his rape sentence before parole eligibility, and that the Arkansas Department of Correction, rather than the sentencing court, determines parole eligibility. The court further concluded that the statute’s application did not violate due process, modify Mason’s sentence, or require a trial court order.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	January 22, 2015
DOCKET	CV-14-273
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pro se appeal from the Jefferson County Circuit Court's dismissal of a petition for declaratory judgment and writ of mandamus concerning appellant's parole eligibility.
STANDARD OF REVIEW	The court reviewed the circuit court's action de novo and upheld its decision in the declaratory-judgment and mandamus action unless clearly erroneous.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court per curiam opinion; precedential.
PARTIES	Gary J. Mason v. Ray Hobbs, Director, Arkansas Department of Correction

TOPICS

- appellate procedure
- due process
- remedies
- statutory interpretation
- separation of powers

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Mason was entitled to declaratory relief concerning application of Arkansas Code Annotated section 16-93-611(a)(1) to his rape sentence.
2. Whether the ADC's application of the seventy-percent parole-eligibility requirement unlawfully modified Mason's sentence or constituted a sentence enhancement without a court order.
3. Whether application of the parole-eligibility statute without notice violated due process.
4. Whether the ADC lacked authority to determine parole eligibility because the judgment did not cite the statute.
5. Whether Mason was entitled to a writ of mandamus compelling relief concerning his parole eligibility.

HOLDINGS

1. Mason was not entitled to declaratory judgment because he failed to establish the statutory and justiciability requirements for declaratory relief.
2. Mason was not entitled to a writ of mandamus because he failed to establish an enforceable right to the requested relief or a clear and certain right requiring performance of a nondiscretionary duty.
3. Application of the statute did not violate due process because there is no constitutional right or entitlement to parole.
4. Determining parole eligibility is within the authority of the ADC, not the sentencing court, and the ADC's determination does not modify the prison sentence.
5. The ADC properly applied section 16-93-611(a)(1), as in effect when Mason committed the offense, even though the judgment did not cite the statute.

KEY QUOTATIONS

“There is no constitutional right or entitlement to parole that would invoke due-process protection.” (3)

“The determination of parole eligibility is solely within the province of the ADC.” (4)

FACTUAL BACKGROUND

Mason was sentenced to 300 months' imprisonment for rape, 72 months for sexual indecency with a child, and 120 months for possessing matter depicting sexually explicit conduct involving a child. His offenses occurred between August 2007 and March 2008, when Arkansas Code Annotated section 16-93-611(a)(1) required a person convicted of rape to serve at least seventy percent of the sentence before becoming eligible for parole or transfer. The ADC applied that statute in determining Mason's parole-eligibility date, and Mason challenged the application as an unconstitutional sentence enhancement and modification of his sentence.

PROCEDURAL HISTORY

Mason was convicted of rape, sexual indecency with a child, and possessing matter depicting sexually explicit conduct involving a child, and received consecutive and concurrent sentences in an amended 2009 judgment. The Arkansas Court of Appeals affirmed the convictions and sentences. In 2013, Mason filed a petition for declaratory judgment and mandamus against the ADC director, challenging application of the seventy-percent parole-eligibility statute to his rape sentence. The circuit court dismissed the petition, and the Arkansas Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Mason v. State, 2009 Ark. App. 598, 330 S.W.3d 445
- Carroll v. Hobbs, 2014 Ark. 395, 442 S.W.3d 834 (per curiam)
- Gardner v. Hobbs, 2013 Ark. 439 (per curiam)
- Girley v. Hobbs, 2014 Ark. 325, 445 S.W.3d 494 (per curiam)
- McCutchen v. City of Ft. Smith, 2012 Ark. 452, 425 S.W.3d 671
- Ark. Dep't of Human Servs. v. Ross-Lawhon, 290 Ark. 578, 721 S.W.2d 658 (1986)
- Cridge v. Hobbs, 2014 Ark. 153 (per curiam)
- Banks v. Hobbs, 2013 Ark. 377 (per curiam)
- Aguilar v. Lester, 2011 Ark. 329 (per curiam)
- Michalek v. Lockhart, 292 Ark. 301, 730 S.W.2d 210 (1987)
- Mitchem v. Hobbs, 2014 Ark. 233 (per curiam)
- Thompson v. State, 2009 Ark. 235 (per curiam)
- Pitts v. Hobbs, 2013 Ark. 457 (per curiam)
- Stephens v. Hobbs, 2012 Ark. 332 (per curiam)
- Johnson v. State, 2012 Ark. 212 (per curiam)
- Abdullah v. Lockhart, 302 Ark. 506, 790 S.W.2d 440 (1990)
- Fain v. State, 286 Ark. 35, 688 S.W.2d 940 (1985)
- Ritter v. Hobbs, 2014 Ark. 68 (per curiam)
- Anderson v. Hobbs, 2013 Ark. 354 (per curiam)