

SUPREME COURT OF OHIO

State v. Harper

State v. Harper, 2020 Ohio 2913 (Ohio 2020) · No. 2018-1144 · Decided May 14, 2020

SUMMARY

The Ohio Supreme Court held that when a sentencing court has subject-matter and personal jurisdiction, errors in imposing postrelease control render the sentence voidable, not void, and must be challenged on direct appeal or are barred by res judicata. The failure to include in the sentencing entry notice of the consequences of violating postrelease control under R.C. 2967.28 does not void that portion of the sentence. Prior cases holding that such failures rendered the postrelease-control portion void are overruled.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Kennedy, J.; Trapp, J.; DeWine, J.; Donnelly, J.; Stewart, J.; O'Connor, C.J.; Fischer, J.
JURISDICTION	Ohio
DECIDED	May 14, 2020
DOCKET	2018-1144
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from the Court of Appeals for Franklin County, Tenth District
PRECEDENTIAL VALUE	published
PARTIES	State of Ohio v. Andre Dejuan Harper

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- res judicata
- statutory interpretation

PRACTICE AREAS

- Criminal Law
- Appellate Procedure
- Sentencing

QUESTIONS PRESENTED

1. Does the failure to include in a sentencing entry the consequences of violating postrelease control, as required by Grimes, render the sentence void and subject to collateral attack at any time?

HOLDINGS

1. When a sentencing court has jurisdiction over the subject matter and the person, any error in the exercise of that jurisdiction in imposing postrelease control renders the sentence voidable, not void, and the sentence may be set aside only if successfully challenged on direct appeal.

KEY QUOTATIONS

“When a specific action is within a court’s subject-matter jurisdiction, any error in the exercise of that jurisdiction renders the court’s judgment voidable, not void.” (¶ 26)

“A sentence is void when a sentencing court lacks jurisdiction over the subject-matter of the case or personal jurisdiction over the accused. When the sentencing court has jurisdiction to act, sentencing errors in the imposition of postrelease control render the sentence voidable, not void, and the sentence may be set aside if successfully challenged on direct appeal.” (¶ 42)

FACTUAL BACKGROUND

Harper was indicted on two robbery counts. He pleaded guilty to a third-degree felony robbery in February 2013. The trial court sentenced him to three years in prison and imposed a mandatory three-year term of postrelease control. The trial court gave oral notices of postrelease control and provided a separate document informing Harper of the consequences of violating it, but the sentencing entry did not include the consequences language. Harper did not appeal. He was released from prison in September 2015 and placed on postrelease control. In July 2017, after being charged with violating postrelease control, he moved to vacate that portion of his sentence, arguing it was void under *Grimes*.

PROCEDURAL HISTORY

Harper pleaded guilty to robbery and was sentenced to three years in prison with mandatory postrelease control. The trial court gave oral notices but did not include consequences of violating postrelease control in the sentencing entry. Harper did not appeal. After release, he violated postrelease control and moved to vacate the postrelease control portion of his sentence, citing *State v. Grimes*. The trial court denied the motion. The court of appeals affirmed the denial but remanded for a nunc pro tunc entry to include the consequences language. The state appealed to the Ohio Supreme Court.

DISPOSITION

reversed

CASES CITED

- *State v. Grimes*, 151 Ohio St. 3d 19, 2017-Ohio-2927, 85 N.E.3d 700
- *State v. Fischer*, 128 Ohio St. 3d 92, 2010-Ohio-6238, 942 N.E.2d 332
- *State v. Jordan*, 104 Ohio St. 3d 21, 2004-Ohio-6085, 817 N.E.2d 864
- *Ex parte Shaw*, 7 Ohio St. 81 (1857)
- *State v. Perry*, 10 Ohio St. 2d 175, 226 N.E.2d 104 (1967)

- *Pratts v. Hurley*, 102 Ohio St. 3d 81, 2004-Ohio-1980, 806 N.E.2d 992
- *State v. Beasley*, 14 Ohio St. 3d 74, 471 N.E.2d 774 (1984)
- *State v. Simpkins*, 117 Ohio St. 3d 420, 2008-Ohio-1197, 884 N.E.2d 568
- *State v. Boswell*, 121 Ohio St. 3d 575, 2009-Ohio-1577, 906 N.E.2d 422
- *State v. Bezak*, 114 Ohio St. 3d 94, 2007-Ohio-3250, 868 N.E.2d 961
- *State v. Singleton*, 124 Ohio St. 3d 173, 2009-Ohio-6434, 920 N.E.2d 958
- *State v. Harris*, 132 Ohio St. 3d 318, 2012-Ohio-1908, 972 N.E.2d 509
- *State v. Moore*, 135 Ohio St. 3d 151, 2012-Ohio-5479, 985 N.E.2d 432
- *State v. Williams*, 148 Ohio St. 3d 403, 2016-Ohio-7658, 71 N.E.3d 234

CITED IN

- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 23
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 4
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 23
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 25
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 4
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 26
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 23
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶¶ 23, 26
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 25
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 23
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913
- *State v. Harper*, *State v. Harper*, 2020-Ohio-2913, ¶ 23

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