

SUPREME COURT OF UTAH

State v. Clark, 2011 UT 23

251 P.3d 829 (2011) · No. No. 20090525 · Decided April 29, 2011

SUMMARY

The Supreme Court of Utah held that minor crime victims lacked a statutory or constitutional right to appeal a restitution order because the statutory appeal provision was not in effect when they filed their appeal. The court rejected applying the reinstated provision retroactively and dismissed the appeal for lack of jurisdiction.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Lee; Chief Justice Durham; Associate Chief Justice Durrant; Justice Parrish; Justice Nehring
JURISDICTION	Utah
DECIDED	April 29, 2011
DOCKET	No. 20090525
DISPOSITION	dismissed
PROCEDURAL POSTURE	Minor crime victims appealed a district court order vacating an earlier restitution order and declining to require the Utah Division of Child and Family Services to pay their treatment costs. The Utah Supreme Court dismissed the appeal for lack of appellate jurisdiction because the victims had no statutory or constitutional right to appeal when they filed.
STANDARD OF REVIEW	The court addressed appellate jurisdiction as a threshold legal issue and reviewed it under the governing statutes and constitutional provisions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	T.C., N.C. v. State of Utah, Zachariah E. Clark

TOPICS

- appellate jurisdiction
- appellate procedure
- criminal procedure
- statutory interpretation
- restitution criminal

PRACTICE AREAS

criminal procedure

appellate procedure

victims' rights

restitution

QUESTIONS PRESENTED

1. Whether the minor crime victims had a statutory or constitutional right to appeal the district court's restitution order when they filed their appeal on June 19, 2009.
2. Whether the victims' right to appeal could be determined under the version of the statute in effect when the underlying criminal conduct occurred rather than the version in effect when the appeal was filed.
3. Whether the Utah Supreme Court could recognize a one-time equitable exception based on the Legislature's alleged inadvertent repeal of the victims' appellate right.

HOLDINGS

1. The victims lacked a statutory or constitutional right to appeal because Utah law provided no effective right of appeal for crime victims when they filed their appeal.
2. The law governing a procedural right of appeal is the law in effect when the procedural act—here, filing the appeal—occurred, not the law in effect when the underlying criminal conduct occurred.
3. The court could not revive or extend the statutory right of appeal based on speculation that the Legislature's repeal was inadvertent or unfair.

KEY QUOTATIONS

“The difference is in the nature of the underlying occurrence at issue. On matters of substance the parties' primary rights and duties are dictated by the law in effect at the time of their underlying primary conduct (e.g., the conduct giving rise to a criminal charge or civil claim). When it comes to the parties' procedural rights and responsibilities, however, the relevant underlying conduct is different: the relevant occurrence for such purposes is the underlying procedural act (e.g., filing a motion or seeking an appeal).” (834)

“Neither this court, nor any party, has the power to resurrect statutory language that has been repealed or significantly changed through proper amendment by the legislature.” (835)

FACTUAL BACKGROUND

Zachariah E. Clark, who had been placed for adoption by the Utah Division of Child and Family Services, was convicted of multiple offenses involving the sexual abuse of his younger adopted brothers, T.C. and N.C. Because Clark was sentenced to at least sixteen years in prison and was unable to pay, the district court initially ordered DCFS to pay the victims' uninsured treatment costs. After DCFS presented evidence that the Legislature had not appropriated funds for those costs, the court vacated its prior order and entered a new order declining to require DCFS to pay.

PROCEDURAL HISTORY

Zachariah E. Clark was convicted of five counts of sodomy on a child and five counts of sex abuse of a child. The district court initially ordered the Utah Division of Child and Family Services to pay the victims' uninsured

treatment costs, but later vacated that order after determining that the Legislature had not appropriated funds for that purpose. The victims filed their appeal on June 19, 2009, during a statutory gap in which Utah law did not provide crime victims a right to appeal.

DISPOSITION

dismissed

CASES CITED

- Castle Dale City v. Woolley, 61 Utah 291, 212 P. 1111 (1923)
- Griffin v. Illinois, 351 U.S. 12, 76 S. Ct. 585, 100 L. Ed. 891 (1956)
- State v. Lane, 2009 UT 35, 212 P.3d 529
- State v. Casey, 2002 UT 29, 44 P.3d 756
- Bradbury v. Valencia, 2000 UT 50, 5 P.3d 649
- Harvey v. Cedar Hills City, 2010 UT 12, 227 P.3d 256
- Department of Social Services v. Higgs, 656 P.2d 998 (Utah 1982)
- OSI Industries v. Utah State Tax Commission, 860 P.2d 381 (Utah Ct. App. 1993)
- Carlucci v. Utah State Industrial Commission, 725 P.2d 1335 (Utah 1986)
- Workers' Compensation Fund v. State, 2005 UT 52, 125 P.3d 852
- Chapman Industries v. United Insurance Co. of America, 110 Nev. 454, 874 P.2d 739 (1994)
- Monson v. Carver, 928 P.2d 1017 (Utah 1996)
- California Department of Corrections v. Morales, 514 U.S. 499, 115 S. Ct. 1597, 131 L. Ed. 2d 588 (1995)
- Kilpatrick v. Wiley, Rein & Fielding, 2001 UT 107, 37 P.3d 1130