

COURT OF APPEALS OF MARYLAND

Bashawn Montgomery Ray v. State of Maryland

454 Md. 563 (2017) · No. No. 81, September Term, 2016 · Decided July 28, 2017

SUMMARY

The Maryland Court of Appeals held that a plea agreement providing for a "cap of four years on any executed incarceration" clearly and unambiguously limited only the executed portion of the sentence. The court concluded that the circuit court could impose a ten-year sentence with six years suspended and four years of probation without violating the agreement. It affirmed the denial of the petitioner's motion to correct an illegal sentence.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Hotten, J.; Barbera, C.J.; Greene, J.; Adkins, J.; McDonald, J.; Watts, J.; Getty, J.
JURISDICTION	Maryland
DECIDED	July 28, 2017
DOCKET	No. 81, September Term, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner sought review of the Court of Special Appeals' affirmance of the denial of his motion to correct an allegedly illegal sentence under Maryland Rule 4-345(a).
STANDARD OF REVIEW	De novo review applies to whether the trial court violated the terms of a plea agreement and to interpretation of the agreement, including whether its language is ambiguous. Whether a sentence is inherently illegal under Maryland Rule 4-345(a) is also reviewed under the applicable legal standard.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; binding precedent in Maryland.
PARTIES	Bashawn Montgomery Ray v. State of Maryland

TOPICS

- sentencing
- plea bargaining
- contract interpretation
- criminal procedure

PRACTICE AREAS

criminal law

sentencing

plea agreements

contract interpretation

QUESTIONS PRESENTED

1. Whether the phrase "cap of four years on any executed incarceration" in the binding sentencing agreement was clear and unambiguous.
2. If the sentencing-cap provision was ambiguous, whether a reasonable lay person in Ray's position would have understood that the court could impose suspended incarceration in addition to four years of executed incarceration.
3. Whether Ray's sentence was illegal and correctable under Maryland Rule 4-345(a).

HOLDINGS

1. The phrase "cap of four years on any executed incarceration" is clear and unambiguous and limits only the executed portion of incarceration, not the total sentence including suspended incarceration.
2. Even assuming the phrase "executed incarceration" was ambiguous, a reasonable person in Ray's position would have understood that the court could impose an additional unexecuted period of incarceration as a suspended sentence.
3. Ray's sentence was not illegal because it complied with the binding sentencing agreement's four-year cap on executed incarceration.

KEY QUOTATIONS

"First, we must determine whether the plain language of the agreement is clear and unambiguous as a matter of law. If the plain language of the agreement is clear and unambiguous, then further interpretive tools are unnecessary, and we enforce the agreement accordingly." (at 573-74)

"The plain language of the disputed provision of the agreement was clear and unambiguous." (at 575)

"a reasonable person in Petitioner's position would have understood that he or she could be subject to an additional but unexecuted period of incarceration imposed as a suspended sentence." (at 576)

FACTUAL BACKGROUND

Ray entered into a written agreement with the State under which he would proceed on conspiracy to commit theft and making a false statement charges by an agreed statement of facts, while the State would dismiss other counts and accept a cap of four years on any executed incarceration. The circuit court imposed ten years' incarceration, suspended six years, and ordered four years of probation. Ray contended that the agreement limited his total sentence to four years, while the State maintained that only the executed portion was capped.

PROCEDURAL HISTORY

Ray pleaded not guilty on an agreed statement of facts to conspiracy to commit theft and making a false statement to police pursuant to an agreement providing for a cap of four years on executed incarceration. The circuit court sentenced him to ten years' incarceration, with six years suspended, followed by four years of

probation. The circuit court denied Ray's motion to correct the sentence, and the Court of Special Appeals affirmed. The Court of Appeals of Maryland granted certiorari and affirmed.

DISPOSITION

affirmed

CASES CITED

- Ray v. State, 230 Md. App. 157, 146 A.3d 1157 (2016)
- Cuffley v. State, 416 Md. 568, 7 A.3d 557 (2010)
- Baines v. State, 416 Md. 604, 7 A.3d 578 (2010)
- Matthews v. State, 424 Md. 503, 36 A.3d 499 (2012)
- Dotson v. State, 321 Md. 515, 583 A.2d 710 (1991)
- Tshiwala v. State, 424 Md. 612, 37 A.3d 308 (2012)
- United States v. Jordan, 509 F.3d 191 (4th Cir. 2007)
- Towson v. Conte, 384 Md. 68, 862 A.2d 941 (2004)
- Hartman v. State, 452 Md. 279, 156 A.3d 886 (2017)
- Solorzano v. State, 397 Md. 661, 919 A.2d 652 (2007)
- Brendsel v. Winchester Construction Co., Inc., 392 Md. 601, 898 A.2d 472 (2006)
- Smith v. State, Slip Op. (2017)