

COURT OF APPEALS OF MARYLAND

Scott Alan Pete v. State of Maryland, 384 Md. 47

862 A.2d 419 (2004) · No. No. 19, September Term, 2004 · Decided December 6, 2004

SUMMARY

The Court of Appeals of Maryland held that restitution to the Local Government Insurance Trust for damage to a police cruiser was an illegal sentence and could not be imposed as a condition of probation for Pete’s second-degree assault conviction. The court concluded that restitution was unavailable for the reckless-driving conviction because that offense was not punishable by confinement, and the cruiser damage was not a direct result of the assault. The court vacated the restitution order and corresponding probation condition.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Harrell; Bell, C.J.; Raker; Wilner; Cathell; Battaglia; Greene
JURISDICTION	Maryland
DECIDED	December 6, 2004
DOCKET	No. 19, September Term, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for writ of certiorari challenging the legality of restitution ordered as a condition of probation.
STANDARD OF REVIEW	The legality of a sentence and the interpretation of Maryland sentencing and restitution statutes are reviewed de novo; the trial court's exercise of probationary authority is otherwise reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Scott Alan Pete v. State of Maryland

TOPICS

- restitution criminal
- probation
- sentencing
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal law
- sentencing
- probation
- restitution
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the trial court could order restitution for damage caused by reckless driving as a condition of probation imposed for an unrelated second-degree assault conviction.

HOLDINGS

1. The restitution order requiring Pete to pay \$6,490.53 to the Local Government Insurance Trust was an illegal sentence and could not be imposed as a condition of probation for the second-degree assault conviction because the cruiser damage was not a direct result of that assault, and reckless driving was not a crime punishable by confinement for which restitution could be ordered directly under the applicable statute.

KEY QUOTATIONS

“We conclude that the trial court's restitution order with regard to LGIT, as a condition of probation, is an illegal sentence.” (at 420-21)

“The General Assembly has required a direct result between the qualifying crime committed and the damages inflicted before restitution may be ordered.” (at 427)

“A probation order for a criminal conviction conditioned on restitution must meet the minimum requirements of: (1) a victim with property damage of the type enumerated in § 11-603, and (2) the damage to the victim be the direct result of the crime for which the defendant was convicted and for which it was directed.” (at 430)

FACTUAL BACKGROUND

Pete assaulted Susan Raickle in her apartment. Approximately two hours later, while police were attempting to stop him, Pete drove away rapidly and stopped abruptly, causing a police cruiser to collide with his truck and sustain \$6,490.53 in damage. Pete was convicted of second-degree assault, reckless driving, and related offenses, and the sentencing court ordered restitution to the Local Government Insurance Trust for the cruiser damage as a condition of probation for the assault conviction.

PROCEDURAL HISTORY

After a bench trial in the Circuit Court for Dorchester County, Pete was convicted of second-degree assault, reckless driving, and other offenses. The circuit court imposed restitution of \$6,490.53 to the Local Government Insurance Trust as a condition of probation for the second-degree assault conviction. The Court of Special Appeals affirmed in an unreported opinion. The Court of Appeals of Maryland granted certiorari, reversed that portion of the judgment, and remanded with instructions to vacate the restitution condition.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Special Appeals was instructed to vacate the portion of the probation condition requiring Pete to pay \$6,490.53 in restitution to the Local Government Insurance Trust.

CASES CITED

- Grey v. Allstate Insurance Co., 363 Md. 445, 769 A.2d 891 (2001)
- Songer v. State, 327 Md. 42, 607 A.2d 557 (1992)
- Anne Arundel County v. Hartford Accident and Indemnity Co., 329 Md. 677, 621 A.2d 427 (1993)
- Lee v. State, 307 Md. 74, 512 A.2d 372 (1986)
- Coles v. State, 290 Md. 296, 429 A.2d 1029 (1981)
- Bailey v. State, 355 Md. 287, 734 A.2d 684 (1999)
- Sheppard v. State, 344 Md. 143, 685 A.2d 1176 (1996)
- Walczak v. State, 302 Md. 422, 488 A.2d 949 (1985)
- Price v. State, 378 Md. 378, 835 A.2d 1221 (2003)
- State v. Bricker, 321 Md. 86, 581 A.2d 9 (1990)
- Whiting-Turner Contracting Co. v. Fitzpatrick, 366 Md. 295, 783 A.2d 667 (2001)
- Government Employees Insurance Co. v. Insurance Commissioner, 332 Md. 124, 630 A.2d 713 (1993)