

DISTRICT OF COLUMBIA COURT OF APPEALS

Denson v. United States

918 A.2d 1193 (D.C. 2007) · Decided November 28, 2006

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of a defendant’s pre-sentence motion to withdraw guilty pleas to child sexual abuse, PCP possession, and ammunition possession charges. The court held that a discretionary supervised-release condition prohibiting contact with minors is a collateral consequence, so neither the trial court nor defense counsel was required to advise the defendant of it before the pleas were entered.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per curiam; King; Kramer; Thompson
JURISDICTION	District of Columbia
DECIDED	November 28, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Denson appealed the trial court's denial of his pre-sentence motion to withdraw guilty pleas to two counts of second-degree child sexual abuse, unlawful possession of PCP, and unlawful possession of ammunition.
PRECEDENTIAL VALUE	published opinion
PARTIES	Denson v. United States

TOPICS

- plea bargaining
- criminal procedure
- right to counsel
- appellate procedure

PRACTICE AREAS

- criminal procedure
- guilty pleas
- supervised release
- ineffective assistance of counsel
- appellate procedure

QUESTIONS PRESENTED

1. Whether Superior Court Criminal Rule 11(c)(1) required the trial court to advise Denson before accepting his guilty plea of a discretionary supervised-release condition prohibiting contact with minors.

2. Whether defense counsel rendered ineffective assistance by failing to advise Denson before his guilty plea of the anticipated supervised-release condition.
3. Whether a discretionary supervised-release condition prohibiting contact with minors is a direct punitive consequence of a guilty plea or instead a collateral consequence.

HOLDINGS

1. Rule 11(c)(1)'s requirement that a defendant be advised of the mandatory minimum and maximum possible penalties applies to direct consequences of the plea that have a definite and immediate impact on the range of punishment and are part and parcel of the sentence itself. A discretionary supervised-release condition imposed by the U.S. Parole Commission is a collateral consequence, so the trial court was not required to advise Denson of it before accepting his guilty plea.
2. Defense counsel had no duty under Rule 11 or the Constitution to advise Denson before his guilty plea of the discretionary supervised-release condition prohibiting contact with minors because the condition was a collateral consequence rather than a direct consequence of the plea.

KEY QUOTATIONS

“Rule 11(c)(1)’s requirement that a defendant be notified of the mandatory minimum and the maximum possible penalties for the offense to which he is pleading guilty refers to those “direct” consequences that “have a definite and immediate impact on the range of defendant’s punishment” and that are “absolutely part and parcel to the sentence itself.”” (918 A.2d at 1195)

“In general,” on the other hand, “neither the trial judge nor defense counsel is required to explain the collateral consequences of a guilty plea to the defendant.”” (918 A.2d at 1195)

“It is instead akin to other predictable repercussions of a criminal conviction that we have recognized as non-punitive collateral consequences of which neither Rule 11 nor the Constitution require a defendant to be advised before he or she pleads guilty.” (918 A.2d at 1196)

FACTUAL BACKGROUND

At the time of his guilty plea, Denson admitted sexually assaulting two thirteen-year-old girls in separate incidents twelve days apart after incapacitating each victim with alcohol or PCP. After the second assault, the victim escaped and alerted a bystander, who called police; Denson was arrested while attempting to flee. A search of his apartment yielded PCP and 98 rounds of handgun ammunition. The anticipated condition of supervised release at issue would have prohibited contact with minors, but the opinion noted that the record did not establish that the condition had been or would be imposed.

PROCEDURAL HISTORY

Denson pleaded guilty on November 15, 2003. He subsequently moved unsuccessfully to withdraw his guilty plea before sentencing and was sentenced to a total of 13 years and 180 days of imprisonment followed by three years of supervised release. He appealed, initially arguing that the trial court violated Superior Court Criminal Rule 11(c)(1), later adding an ineffective-assistance claim, and ultimately abandoning his SORA-related arguments at oral argument.

DISPOSITION

affirmed

CASES CITED

- Smith v. Doe, 538 U.S. 84, 123 S. Ct. 1140, 155 L. Ed. 2d 164 (2003)
- In re W.M., 851 A.2d 431 (D.C. 2004)
- Goodall v. United States, 759 A.2d 1077, 1081 (D.C. 2000)
- Ramos v. United States, 840 A.2d 1292, 1293 (D.C. 2004)
- Johnson v. United States, 529 U.S. 694, 708-09, 120 S. Ct. 1795, 146 L. Ed. 2d 727 (2000)
- Redwine v. Zuckert, 115 U.S. App. D.C. 130, 132, 317 F.2d 336, 338 (1963)

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