

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Hayes

2021 PA Super 232 · No. No. 3 MDA 2021 · Decided December 2, 2021

SUMMARY

The Pennsylvania Superior Court held that a Maryland probation-before-judgment disposition for driving while intoxicated qualifies as a prior offense under Pennsylvania's DUI recidivist-sentencing statute. The court distinguished Maryland probation before judgment from Pennsylvania's Accelerated Rehabilitative Disposition because Maryland law requires a determination of guilt or an equivalent plea before probation before judgment may be imposed. It vacated the sentence and remanded for resentencing as a third-offense DUI.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Kunselman, J.; McCaffery, J.; Stevens, P.J.E.
JURISDICTION	Pennsylvania
DECIDED	December 2, 2021
DOCKET	No. 3 MDA 2021
DISPOSITION	vacated
PROCEDURAL POSTURE	The Commonwealth appealed from Hayes's judgment of sentence for DUI and related offenses, challenging the sentencing court's refusal to count Hayes's prior Maryland probation-before-judgment disposition as a prior DUI offense for Pennsylvania recidivist sentencing.
STANDARD OF REVIEW	Legality of sentence is reviewed de novo, with a plenary scope of review.
PRECEDENTIAL VALUE	published precedential opinion of the Superior Court of Pennsylvania
PARTIES	Commonwealth of Pennsylvania v. Garrett James Hayes

TOPICS

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QUESTIONS PRESENTED

1. Whether a Maryland probation-before-judgment disposition constitutes a prior offense under 75 Pa.C.S.A. § 3806(a) for purposes of Pennsylvania DUI recidivist sentencing.
2. Whether the Pennsylvania sentencing court erred by refusing to treat the Maryland probation-before-judgment disposition as a prior conviction based on due-process principles discussed in *Commonwealth v. Chichkin*.

HOLDINGS

1. A Maryland probation-before-judgment disposition is a form of preliminary disposition within the meaning of 75 Pa.C.S.A. § 3806(a) and therefore constitutes a prior offense for Pennsylvania DUI recidivist sentencing.
2. Counting Hayes's Maryland PBJ disposition as a prior offense did not violate due process because the Maryland procedure included the constitutional safeguards absent from Pennsylvania's ARD program.

KEY QUOTATIONS

“Therefore, we conclude that the due process safeguards missing from Pennsylvania’s ARD program were present in Hayes’ 2011 DWI trial before the District Court of Carroll County.” (at 8)

“The sentencing court erred by not treating the 2011 DWI as a prior conviction under 75 Pa.C.S.A. § 3806(a).” (at 8)

FACTUAL BACKGROUND

Hayes had been arrested for DWI in Maryland in 2011 and 2014, and Pennsylvania later charged him with DUI, third offense. The Maryland court's 2011 disposition was probation before judgment after the record indicated a not-guilty plea; under Maryland law, however, probation before judgment may be imposed only after a determination of guilt or acceptance of a guilty or nolo contendere plea. The Pennsylvania sentencing court declined to count the 2011 disposition as a prior offense and sentenced Hayes as a second-offense DUI.

PROCEDURAL HISTORY

Hayes was convicted after a stipulated nonjury trial in the Adams County Court of Common Pleas. The sentencing court excluded evidence of his 2011 Maryland probation-before-judgment disposition, treated the current DUI as a second offense, and imposed five years of probation with 90 days of restrictive DUI conditions. The Commonwealth appealed, and the Superior Court vacated the sentence and remanded for resentencing as a third-offense DUI.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand for resentencing with Hayes's 2011 Maryland DWI treated as a prior offense, making the current DUI a third-offense DUI.

CASES CITED

- Commonwealth v. Chichkin, 232 A.3d 959 (Pa. Super. 2020)
- Commonwealth v. Herman, 161 A.3d 194, 209 (Pa. 2017)
- Commonwealth v. Alston, 212 A.3d 526, 528 (Pa. Super. 2019)
- Commonwealth v. Lutz, 495 A.2d 928, 935 (Pa. 1985)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Alleyne v. United States, 570 U.S. 99 (2013)
- Myers v. State, 496 A.2d 312, 315 (Md. 1985)
- Howard Cty. Dep't of Soc. Servs. v. Linda J., 869 A.2d 404, 409 (Md. App. 2005)

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