

NEBRASKA SUPREME COURT

State v. Shaull

301 Neb. 82 (2018) · No. S-17-943 · Decided September 14, 2018

SUMMARY

The Nebraska Supreme Court affirmed Steven D. Shaull’s sentence for theft by deception, including the conditions of postrelease supervision. The court held that Shaull waived his challenge to the conditions as unrelated to rehabilitation and that any inability to comply due to possible extradition could be addressed through a later motion to modify the conditions.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	September 14, 2018
DOCKET	S-17-943
DISPOSITION	affirmed
PROCEDURAL POSTURE	Shaull appealed from his conviction and sentence, specifically challenging the terms and conditions of postrelease supervision imposed by the Lancaster County District Court.
STANDARD OF REVIEW	A sentence within the statutory limits is reviewed for abuse of discretion, including whether the sentencing court considered and applied the relevant factors and applicable legal principles. An abuse of discretion exists when the decision rests on untenable or unreasonable reasons or is clearly against justice, conscience, reason, or evidence.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Steven D. Shaull v. State of Nebraska

TOPICS

- sentencing
- standard of review
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Sentencing and postrelease supervision

Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by imposing postrelease-supervision conditions that Shaull allegedly could not comply with while incarcerated in another state.
2. Whether Shaull preserved his argument that the postrelease-supervision conditions were not reasonably related to rehabilitation and the purposes of supervision.

HOLDINGS

1. The district court did not abuse its discretion by imposing the challenged postrelease-supervision conditions. The possibility of Shaull's extradition was not certain at sentencing, and if extradition occurred, the conditions could be modified on motion of the defendant or on the court's own motion.
2. Shaull waived his argument that the conditions were not reasonably related to the purposes of postrelease supervision because he did not object to the conditions on that specific ground in the district court.
3. The sentence and conditions were not otherwise an abuse of discretion.

KEY QUOTATIONS

“Where a sentence imposed within the statutory limits is alleged to be excessive, an appellate court must determine whether the sentencing court abused its discretion in considering and applying the relevant factors as well as any applicable legal principles in determining the sentence to be imposed.” (301 Neb. at 84)

“We do not address Shaull’s second argument, because a review of the record reveals that no objection was made to any of the conditions of employment on the basis that they did not bear a reasonable relationship to the purposes of his supervision.” (301 Neb. at 86)

FACTUAL BACKGROUND

Shaull received \$11,500 from a Lancaster County, Nebraska, resident for a vehicle engine sold through an online auction service but never delivered the engine. The investigation showed that he had sold the same engine without delivery to individuals in multiple states. After extradition to Nebraska, he pleaded no contest to theft by deception and received imprisonment followed by postrelease supervision, which included conditions he challenged as infeasible if he were later extradited to Kentucky.

PROCEDURAL HISTORY

Shaull pleaded no contest to theft by deception after being charged with fraudulently selling a vehicle engine online without delivering it. The district court sentenced him to 2 years' imprisonment and 1 year of postrelease supervision subject to 20 conditions. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Phillips, 297 Neb. 469, 900 N.W.2d 522 (2017)
- State v. McCave, 282 Neb. 500, 805 N.W.2d 290 (2011)
- State v. Swindle, 300 Neb. 734, 915 N.W.2d 795 (2018)

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