

SUPREME COURT OF INDIANA

Dowell v. State

873 N.E.2d 59 (Ind. 2007) · No. 32S01-0709-CR-352 · Decided September 10, 2007

SUMMARY

The Indiana Supreme Court reviewed a conflict between the trial court’s oral sentencing statement and its written sentencing order in Regunal R. Dowell’s criminal case. Applying *McElroy v. State*, the court concluded that the trial court intended to impose an executed three-year sentence for criminal confinement, affirmed Dowell’s aggregate 43-year sentence, and summarily affirmed the remaining portions of the Court of Appeals’ opinion.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Indiana
DECIDED	September 10, 2007
DOCKET	32S01-0709-CR-352
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a jury trial and sentencing, the Indiana Court of Appeals affirmed Dowell's convictions and aggregate sentence. The Indiana Supreme Court granted transfer to resolve the conflict between the trial court's oral sentencing statement and written sentencing order.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Regunal R. Dowell v. State of Indiana

TOPICS

- sentencing
- appellate procedure
- criminal procedure
- appellate jurisdiction

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice
- sentencing

QUESTIONS PRESENTED

1. When a trial court's oral sentencing statement conflicts with its written sentencing order, which statement controls?
2. Did the trial court intend to impose an executed three-year sentence for criminal confinement, resulting in an aggregate 43-year sentence?

HOLDINGS

1. A conflicting oral sentencing statement does not automatically control over a written sentencing order; the reviewing court must examine both statements to determine which accurately reflects the trial court's intended sentence, with remand for resentencing available if necessary.
2. The trial court intended to impose an executed three-year sentence for criminal confinement, and the resulting aggregate executed sentence was 43 years.

KEY QUOTATIONS

“Rather than presuming the superior accuracy of the oral statement, we examine it alongside the written sentencing statement to assess the conclusions of the trial court.” (60)

“This is different from pronouncing a bright line rule that an oral sentencing statement trumps a written one.” (60)

FACTUAL BACKGROUND

Following a jury trial, Regunal R. Dowell was convicted of three counts of rape, one count of criminal deviate conduct, and one count of criminal confinement. The trial court imposed concurrent and consecutive sentences totaling 43 executed years in its written sentencing order. During the sentencing hearing, however, the court stated at one point that the three-year sentence for criminal confinement was suspended, which would have produced a 40-year executed term.

PROCEDURAL HISTORY

Dowell was convicted of three counts of rape, one count of criminal deviate conduct, and one count of criminal confinement, receiving an aggregate executed sentence of 43 years. The Court of Appeals affirmed. On petition to transfer, the Indiana Supreme Court granted transfer, applied *McElroy v. State*, and affirmed the written 43-year executed sentence while summarily affirming the remaining portions of the Court of Appeals opinion.

DISPOSITION

affirmed

CASES CITED

- *Marshall v. State*, 621 N.E.2d 308, 323 (Ind. 1993)
- *McElroy v. State*, 865 N.E.2d 584, 589 (Ind. 2007)
- *Dowell v. State*, 865 N.E.2d 1059 (Ind. Ct. App. 2007)

