

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Jones

51 A.3d 1290 (D.C. 2012) · Decided September 13, 2012

SUMMARY

The District of Columbia Court of Appeals reversed Anthony Jones's criminal contempt conviction based on his alleged use of illegal substances in violation of a civil protection order. The court held that the order made abstention from illegal substances a condition of unsupervised visitation, not a freestanding prohibition enforceable through criminal contempt. Because Jones lacked adequate notice that drug use could result in contempt, the conviction was reversed.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Washington, Chief Judge; Farrell, Judge; Glickman, Judge
JURISDICTION	District of Columbia
DECIDED	September 13, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	Anthony Jones appealed his convictions for criminal contempt based on alleged violations of a civil protection order. He challenged the contempt conviction predicated on his failure to abstain from substance abuse, arguing for the first time on appeal that the drug-use provision was merely a condition of unsupervised visitation and not an independently enforceable contempt prohibition.
STANDARD OF REVIEW	The court reviewed the finding of a civil-protection-order violation for evidentiary support and plain error, stating that it could not reverse unless the finding was without evidentiary support or plainly wrong. It viewed the evidence in the light most favorable to sustaining the judgment and applied the reasonable-trier-of-fact standard for proof beyond a reasonable doubt.
PRECEDENTIAL VALUE	precedential
PARTIES	Anthony Jones v. United States

TOPICS

- criminal procedure
- due process
- domestic violence
- family law procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether the civil protection order independently required Jones to abstain from all illegal drug use under pain of criminal contempt, rather than making abstention from drug use only a condition of his right to unsupervised visitation.
2. Whether the evidence established beyond a reasonable doubt that Jones willfully disobeyed an express or clearly implied term of the civil protection order.

HOLDINGS

1. The civil protection order did not expressly or by clear implication require Jones to abstain from illegal substances on pain of criminal contempt. The drug-use provision was a condition of continued unsupervised visitation with his child, not a free-standing contempt prohibition.
2. The trial court plainly erred in finding Jones guilty of criminal contempt for substance abuse because the government presented no evidence that he willfully disobeyed a contempt-enforceable term of the civil protection order.

KEY QUOTATIONS

“It carried no free-standing requirement that he abstain from drug use under pain of criminal contempt.” (51 A.3d at 1292)

“Therefore, before a defendant can be convicted of criminal contempt, constitutional due process requires that he be on notice of the type of conduct that constitutes a violation of the court’s order.” (51 A.3d at 1293)

“Applying these same principles of notice to the contempt case at hand, we hold that no reading of the CPO expressly or by clear implication required appellant to abstain from use of illegal substances or risk contempt” (51 A.3d at 1293)

FACTUAL BACKGROUND

Anthony Jones and Leslie Akinola, the mother of Jones's son, were involved in a domestic altercation, prompting Akinola to seek a civil protection order. The order restricted Jones's contact with Akinola and her family and allowed unsupervised visitation with his son only if Jones did not use illegal substances around the child or otherwise. After positive drug tests and missed testing appointments, the trial court found Jones guilty of two counts of criminal contempt.

PROCEDURAL HISTORY

A civil protection order issued after a domestic altercation required Jones to stay away from the petitioner and prohibited specified abusive conduct. The order permitted unsupervised visitation with his son only if Jones did not use illegal substances around the child or otherwise. After a violations hearing, the trial court found Jones guilty of criminal contempt for substance abuse and for failing to report for drug testing, imposing consecutive

sixty-day sentences and a fine. The District of Columbia Court of Appeals reversed the challenged substance-abuse contempt conviction; Jones conceded that the trial court could reasonably find a violation based on missed drug-testing appointments.

DISPOSITION

reversed

CASES CITED

- In re Sobin, 934 A.2d 372, 374 (D.C. 2007)
- Ba v. United States, 809 A.2d 1178, 1182 (D.C. 2002)
- Rivas v. United States, 783 A.2d 125, 134 (D.C. 2001) (en banc)
- In re Robertson, 940 A.2d 1050, 1057 (D.C. 2008), on reh'g, 19 A.3d 751 (D.C. 2011)
- United States v. Dixon, 509 U.S. 688, 742 (1993)
- Resper v. United States, 527 A.2d 1257, 1260 (D.C. 1987)