

SUPREME COURT OF CONNECTICUT

Oliphant v. Commissioner of Correction

274 Conn. 563 (2005) · Decided July 26, 2005

SUMMARY

The Connecticut Supreme Court affirmed the Appellate Court’s dismissal of Anthony W. Oliphant’s habeas petition for lack of subject matter jurisdiction. The court held that the petition challenged only expired April 1995 convictions and that the petitioner was not in custody under those convictions when he filed the petition. The court also declined to apply the continuous-custody exception because the record and briefing did not establish that invalidating the expired convictions would advance the petitioner’s release date.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Sullivan, C.J.
JURISDICTION	Connecticut
DECIDED	July 26, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a grant of certification, the petitioner appealed from the Appellate Court's judgment affirming the habeas court's sua sponte dismissal of his petition for lack of subject matter jurisdiction.
STANDARD OF REVIEW	Subject matter jurisdiction and statutory interpretation are reviewed de novo or plenary. On review of a motion to dismiss, the court accepts the facts alleged in the complaint, including necessarily implied facts, and construes them in the manner most favorable to the pleader.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Anthony W. Oliphant v. Commissioner of Correction

TOPICS

state post-conviction relief habeas corpus appellate procedure statutory interpretation criminal procedure

PRACTICE AREAS

state post-conviction relief habeas corpus criminal procedure statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether the pro se habeas petition should have been construed broadly as challenging the petitioner's unexpired September conviction.
2. Whether the habeas court had subject matter jurisdiction under General Statutes § 52-466 when the petitioner was no longer in custody on the expired April convictions at the time he filed the petition.
3. Whether the petitioner established that the expired April convictions could affect his release date under the continuous-custody exception recognized in *Garlotte v. Fordice*.
4. Whether the habeas court improperly dismissed the petition sua sponte without notice or a hearing; the court declined to reach this issue because it was outside the certified question.

HOLDINGS

1. The habeas court properly construed the petition as challenging only the April convictions and sentences, not the petitioner's unexpired September conviction.
2. General Statutes § 52-466 makes custody on the conviction under attack a jurisdictional requirement, and the habeas court lacked subject matter jurisdiction because the petitioner was not in custody on the expired April convictions when he filed his petition.
3. Under General Statutes § 53a-38 (b), a sentence imposed after an earlier sentence commences when the prisoner is received into the custody to which the later sentence was imposed; concurrent sentences imposed at different times for separate convictions do not automatically commence on the same date.
4. The court declined to decide whether the *Garlotte* continuous-custody exception applies to concurrent sentences because the petitioner inadequately briefed the issue and the record did not establish that invalidating the April convictions would advance his release date.

KEY QUOTATIONS

“Although we allow pro se litigants some latitude, the right of self-representation provides no attendant license not to comply with relevant rules of procedural and substantive law.” (570)

“Section 53a-38 (b) provides on its face that a sentence “commences when the prisoner is received in the custody to which he was sentenced.”” (574-75)

*“In accordance with our recent decision in *Lebrón*, we conclude that the Appellate Court properly determined that the habeas court lacked subject matter jurisdiction because the petitioner was not in custody on the conviction under attack when he filed his petition.”* (581)

FACTUAL BACKGROUND

Oliphant received two April 1995 sentences totaling fifteen months and a separate fifteen-year September 1995 sentence, suspended after seven years, with probation; the September sentence ran concurrently with the April sentences. The April sentences expired before Oliphant filed his habeas petition in December 1998, although he was then serving the September sentence. His petition identified only the April convictions and sentences, and did not expressly challenge the September conviction or allege that the April convictions had enhanced it.

PROCEDURAL HISTORY

The petitioner filed a pro se habeas petition challenging convictions and sentences imposed in April 1995. The habeas court dismissed the petition after determining that the challenged April sentences had expired and that the petitioner was not in custody on those convictions when he filed the petition. The Appellate Court affirmed, and the Connecticut Supreme Court granted certification limited to whether the habeas court lacked subject matter jurisdiction.

DISPOSITION

affirmed

CASES CITED

- Oliphant v. Commissioner of Correction, 83 Conn. App. 10, 11-16, 847 A.2d 1080 (2004)
- Neiman v. Yale University, 270 Conn. 244, 250-51, 851 A.2d 1165 (2004)
- ABC, LLC v. State Ethics Commission, 264 Conn. 812, 822-23, 826 A.2d 1077 (2003)
- Estelle v. Gamble, 429 U.S. 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976)
- Hill v. Williams, 74 Conn. App. 654, 655-56, 813 A.2d 130, cert. denied, 263 Conn. 918, 822 A.2d 242 (2003)
- Higgins v. Hartford County Bar Assn., 109 Conn. 690, 692, 145 A. 20 (1929)
- Strobel v. Strobel, 64 Conn. App. 614, 618, 781 A.2d 356, cert. denied, 258 Conn. 937, 786 A.2d 426 (2001)
- Jenkins v. Commissioner of Correction, 52 Conn. App. 385, 406, 726 A.2d 657, cert. denied, 249 Conn. 920, 733 A.2d 233 (1999)
- Broadnax v. New Haven, 270 Conn. 133, 174, 851 A.2d 1113 (2004)
- Oliphant v. Commissioner of Correction, 80 Conn. App. 613, 614, 836 A.2d 471 (2003), cert. denied, 268 Conn. 907, 845 A.2d 412 (2004)
- Lebron v. Commissioner of Correction, 274 Conn. 507, 522-31, 876 A.2d 1178 (2005)
- Maleng v. Cook, 490 U.S. 488, 492-93, 109 S. Ct. 1923, 104 L. Ed. 2d 540 (1989) (per curiam)
- Peyton v. Rowe, 391 U.S. 54, 67, 88 S. Ct. 1549, 20 L. Ed. 2d 426 (1968)
- Garlotte v. Fordice, 515 U.S. 39, 41, 43, 47, 115 S. Ct. 1948, 132 L. Ed. 2d 36 (1995)
- Ford v. Commissioner of Correction, 59 Conn. App. 823, 827-29, 758 A.2d 853 (2000)
- Carmel Hollow Associates Ltd. Partnership v. Bethlehem, 269 Conn. 120, 129, 848 A.2d 451 (2004)
- Payton v. Albert, 209 Conn. 23, 31-34, 547 A.2d 1 (1988)
- Rivera v. Commissioner of Correction, 254 Conn. 214, 255 n.44, 756 A.2d 1264 (2000)
- Ward v. Greene, 267 Conn. 539, 546, 839 A.2d 1259 (2004)
- Karp v. Urban Redevelopment Commission, 162 Conn. 525, 527, 294 A.2d 633 (1972)
- State v. Davis, 199 Conn. 88, 95, 506 A.2d 86 (1986)

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