

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Gatto v. State

768 So. 2d 1169 (Fla. Dist. Ct. App. 2000) · No. 4D00-1748 · Decided September 13, 2000

SUMMARY

The Florida Fourth District Court of Appeal reviewed the summary denial of Joseph Gatto’s motion to correct an illegal sentence under Florida Rule of Criminal Procedure 3.800(a). The court affirmed the denial of his gain-time challenge without prejudice to administrative exhaustion, but reversed and remanded the remaining Heggs sentencing challenge because the record did not conclusively establish that he was not entitled to relief.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Warner, C.J.; Polen, J.; Shahood, J.
JURISDICTION	Florida
DECIDED	September 13, 2000
DOCKET	4D00-1748
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a summary denial of a motion to correct an illegal sentence under Florida Rule of Criminal Procedure 3.800(a).
STANDARD OF REVIEW	Review of the summary denial of a rule 3.800(a) motion to correct an illegal sentence; summary denial is proper only when the record conclusively demonstrates that the defendant is not entitled to relief.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Joseph A. Gatto v. State of Florida

TOPICS

- sentencing
- post-conviction relief
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the trial court properly summarily denied Gatto's Heggs-based challenge to the legality of his sentence without attaching record documents conclusively demonstrating that he was not entitled to relief.
2. Whether Gatto's gain-time challenge was properly denied without prejudice to his exhaustion of administrative remedies with the Department of Corrections.

HOLDINGS

1. The trial court erred by summarily denying Gatto's Heggs sentencing challenge without attaching record materials that conclusively demonstrated he was not entitled to relief.
2. The trial court correctly denied Gatto's gain-time challenge, but the denial should be without prejudice to his right to exhaust administrative remedies with the Department of Corrections.

KEY QUOTATIONS

“Since the record on appeal does not conclusively demonstrate that appellant is not entitled to relief on this sentencing challenge, the order of summary denial must be reversed and the case remanded.” (1170)

FACTUAL BACKGROUND

Gatto was serving a sentence totaling four years in prison and two years of community control for offenses occurring in 1996. He alleged that the sentence was illegal under *Heggs v. State* and separately challenged his entitlement to gain time. The State contended that he was sentenced as a youthful offender and not under the 1995 sentencing guidelines, and alternatively that his sentence could have been imposed under the 1994 guidelines without a departure.

PROCEDURAL HISTORY

Gatto moved to correct an allegedly illegal sentence, asserting that his four-year prison term and two-year community-control term were unlawful under *Heggs v. State* and also challenging his gain-time entitlement. The trial court summarily denied the motion. The Fourth District affirmed the denial of the gain-time challenge without prejudice to administrative exhaustion, but reversed the denial of the Heggs sentencing challenge because the record did not conclusively establish that he was not entitled to relief.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must consider whether Gatto is entitled to resentencing under *Heggs*. If it determines that *Heggs* resentencing is unnecessary, it must attach the record documents supporting that conclusion. The gain-time denial remains affirmed but without prejudice to administrative exhaustion.

CASES CITED

- Hegg v. State, 759 So. 2d 620 (Fla. 2000)
- Clements v. State, 761 So. 2d 1245 (Fla. 2d DCA 2000)
- Trapp v. State, 760 So. 2d 924 (Fla. 2000)
- Salters v. State, 758 So. 2d 667 (Fla. 2000)
- Smith v. State, 761 So. 2d 419 (Fla. 2d DCA 2000)
- Speed v. State, 764 So. 2d 873 (Fla. 4th DCA 2000)
- Havard v. State, 762 So. 2d 1065 (Fla. 4th DCA 2000)

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