

COURT OF APPEALS OF MARYLAND

Boffen v. State, 372 Md. 724

816 A.2d 88 (2003) · No. No. 16, Sept. Term, 2002 · Decided February 12, 2003

SUMMARY

The Maryland Court of Appeals held that Leroy Carl Boffen did not commit first-degree escape when he fled a courtroom during sentencing. The court concluded that he was neither in the actual custody nor the constructive custody of a statutory place of confinement because he had not first been committed to or physically confined in a correctional facility. The court reversed the escape conviction.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Battaglia, J.; Bell, C.J.; Eldridge, J.; Raker, J.; Wilner, J.; Cathell, J.; Harrell, J.
JURISDICTION	Maryland
DECIDED	February 12, 2003
DOCKET	No. 16, Sept. Term, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Boffen was convicted of first-degree escape after fleeing the courtroom during sentencing on unrelated credit-card offenses. The Court of Special Appeals affirmed in an unreported opinion. The Court of Appeals granted certiorari to determine whether the flight constituted first-degree escape under Maryland law.
STANDARD OF REVIEW	De novo review of the legal question whether the undisputed circumstances constituted first-degree escape under the Maryland escape statute.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Leroy Carl Boffen v. State of Maryland

TOPICS

- criminal procedure
- statutory interpretation
- ejusdem generis
- rule of lenity
- sentencing

PRACTICE AREAS

criminal law

criminal procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether a defendant who is free on bond and flees a courtroom during sentencing, after the judge announces part of an incarceration sentence but before sentencing is completed or the defendant is remanded to custody, is in the actual or constructive custody of a place of confinement for purposes of Maryland's first-degree escape statute.
2. Whether constructive custody under Maryland's escape statute requires that the defendant first have been committed to and physically confined within a place of confinement.

HOLDINGS

1. Boffen was not in actual custody of a place of confinement because he was not within the walls of a correctional facility, detention center, or other legislatively designated place of confinement, and a courtroom was not such a place under the statute.
2. A person cannot commit first-degree escape under the constructive-custody doctrine unless the person was initially committed to and physically confined within a place of confinement. Because Boffen had never been committed to or physically confined within a Division of Correction institution or the detention center before fleeing, his flight was not first-degree escape.

KEY QUOTATIONS

"Thus, to commit the crime of first degree escape in Maryland, one must, without authorization, depart from the actual or constructive custody of a place of confinement." (372 Md. at 731, 816 A.2d at 93)

"We, therefore, conclude that for an individual to commit the crime of first degree escape within the concept of constructive custody, that individual must have been initially committed to and physically confined within a place of confinement." (372 Md. at 741, 816 A.2d at 100)

"In conclusion, we hold that Boffen's actions did not constitute the crime of first degree escape under Maryland law." (372 Md. at 743, 816 A.2d at 102)

FACTUAL BACKGROUND

Boffen was convicted of two credit-card offenses and remained free on bond pending sentencing. During the sentencing hearing, the judge stated that the sentence on the first count was fifteen years to the Division of Correction, but before the judge completed sentencing or remanded Boffen to custody, Boffen interrupted and fled the courtroom. He was arrested outside the courthouse and later convicted of first-degree escape.

PROCEDURAL HISTORY

Boffen was convicted by a jury of two credit-card offenses and remained free on bond pending sentencing. During sentencing, after the judge announced the sentence on the first count but before sentencing was completed or Boffen was remanded to custody, Boffen fled. He was convicted after a nonjury trial of first-degree

escape and received a consecutive seven-and-one-half-year sentence. The Court of Special Appeals affirmed, and the Court of Appeals reversed and remanded with instructions to reverse the circuit court judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the Court of Special Appeals was reversed, and the case was remanded to that court with instructions to reverse the judgment of the Circuit Court for Wicomico County.

CASES CITED

- Boffen v. State, 369 Md. 178, 798 A.2d 551 (2002)
- Farris v. State, 351 Md. 24, 716 A.2d 237 (1998)
- Stewart v. State, 275 Md. 258, 340 A.2d 290 (1975)
- Degren v. State, 352 Md. 400, 722 A.2d 887 (1999)
- Tapscott v. State, 343 Md. 650, 684 A.2d 439 (1996)
- Briggs v. State, 348 Md. 470, 704 A.2d 904 (1998)
- State Ethics Commission v. Antonetti, 365 Md. 428, 780 A.2d 1154 (2001)
- Tipton v. Partner's Management Co., 364 Md. 419, 773 A.2d 488 (2001)
- Chen v. State, 370 Md. 99, 803 A.2d 518 (2002)
- Goldberg v. Miller, 371 Md. 591, 810 A.2d 947 (2002)
- Witte v. Azarian, 369 Md. 518, 801 A.2d 160 (2002)
- Best v. Warden, 235 Md. 633, 201 A.2d 490 (1964)
- Johnson v. Warden, 196 Md. 672, 75 A.2d 843 (1950)
- Taylor v. State, 229 Md. 128, 182 A.2d 52 (1962)
- Ford v. State, 237 Md. 266, 205 A.2d 809 (1965)
- Beasley v. State, 17 Md. App. 7, 299 A.2d 482 (1973)
- Shifflett v. State, 4 Md. App. 227, 242 A.2d 182 (1968)
- Robinson v. State, 18 Md. App. 438, 306 A.2d 624 (1973)
- State v. Briggs, 48 P.3d 686 (Kan. Ct. App. 2002)
- State v. Pichon, 15 Kan. App. 2d 527, 811 P.2d 517 (1991)
- United States v. Peterson, 592 F.2d 1035 (9th Cir. 1979)

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