

SUPREME COURT OF ARKANSAS

Thurmond v. State

2014 Ark. 321 (2014) · No. CR-13-28 · Decided July 31, 2014

SUMMARY

The Supreme Court of Arkansas affirmed the denial of Sam Edward Thurmond, Sr.’s petition to correct an illegal sentence. The court held that his claim—that incarceration under an administrative Act 570 sanction followed by probation revocation violated double jeopardy—did not establish multiple criminal punishments because probation revocation is not a stage of a criminal prosecution. The court also addressed the adequacy of the appellate record and took judicial notice of the record from related postconviction proceedings.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	July 31, 2014
DOCKET	CR-13-28
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition to correct an illegal sentence imposed after revocation of probation.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Sam Edward Thurmond, Sr. v. State of Arkansas

TOPICS

- double jeopardy
- probation
- post-conviction relief
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- probation
- constitutional law

QUESTIONS PRESENTED

1. Whether the probation-revocation proceedings imposed a criminal punishment such that the additional sentence, following the Act 570 administrative detention, violated the Double Jeopardy Clause.

2. Whether Thurmond stated a meritorious claim for correction of an illegal sentence.

HOLDINGS

1. Probation revocation is not a stage of a criminal prosecution and does not impose a criminal punishment that can place a probationer in jeopardy a second time for the conduct underlying the violation.
2. Thurmond failed to allege a meritorious claim that his sentence was illegal, so the denial of his petition to correct an illegal sentence was affirmed.

KEY QUOTATIONS

“This court has held that revocation of probation is not a stage of a criminal prosecution.” (at 3)

“Our precedent is clear that no criminal punishment was imposed during the revocation proceedings.” (at 3)

FACTUAL BACKGROUND

Thurmond entered a negotiated guilty plea to theft of property and was sentenced to county jail time and probation. His probation officer issued an Act 570 Jail Letter imposing seven days of county-jail incarceration as an immediate administrative sanction for a probation violation. Thurmond later stipulated to violating probation, and the circuit court revoked probation and imposed an additional 360 days in jail and additional probation. He argued that both the Jail Letter detention and the revocation sentence punished the same conduct.

PROCEDURAL HISTORY

Thurmond pleaded guilty to theft of property and received 120 days in county jail and 60 months' probation. After he stipulated to violating probation, the circuit court revoked probation and imposed 360 additional days in county jail and additional probation. The court denied his Arkansas Rule of Criminal Procedure 37.1 petition, and the Supreme Court dismissed his appeal from that order. Thurmond then filed a petition to correct an illegal sentence, arguing that the revocation sanction and an earlier seven-day administrative detention constituted successive punishments barred by double jeopardy. The circuit court denied relief, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Thurmond v. State, 2014 Ark. 176 (per curiam)
- Davis v. State, 2013 Ark. 118 (per curiam)
- Rice v. State, 2013 Ark. 167 (per curiam)
- Low v. State, 2012 Ark. 185, 423 S.W.3d 6 (per curiam)
- Ferrell v. State, 2014 Ark. 242 (per curiam)
- Hudson v. United States, 522 U.S. 93 (1997)

- United States v. Comstock, 560 U.S. 126 (2010)
- United States v. Dinitz, 424 U.S. 600 (1976)
- Pyron v. State, 330 Ark. 88, 953 S.W.2d 874 (1997)
- Lee v. State, 2010 Ark. 261 (per curiam)
- Pyland v. State, 302 Ark. 444, 790 S.W.2d 178 (1990)
- Gagnon v. Scarpelli, 411 U.S. 778 (1973)
- Murphy v. State, 2013 Ark. 155 (per curiam)
- Rickenbacker v. Norris, 361 Ark. 291, 206 S.W.3d 220 (2005) (per curiam)

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