

SUPREME COURT OF NEBRASKA

State v. Collins

307 Neb. 581 (2020) · No. No. S-19-959 · Decided October 23, 2020

SUMMARY

The Nebraska Supreme Court affirmed the district court’s order affirming Miranda M. Collins’ convictions and sentences for operating a motor vehicle to avoid arrest and obstructing a peace officer. The court held that the county court did not abuse its discretion in imposing a fine and one-year driver’s license revocation, and that Nebraska law permitted the court to apply Collins’ appearance bond to fines and costs. The court also addressed Collins’ ineffective-assistance claim under the applicable direct-appeal standards.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	October 23, 2020
DOCKET	No. S-19-959
DISPOSITION	affirmed
PROCEDURAL POSTURE	Collins appealed her convictions and sentences from the Lancaster County County Court to the Lancaster County District Court, which affirmed. She then appealed to the Nebraska Supreme Court, challenging the excessiveness of her sentence, the application of her appearance bond to fines and costs, and the denial of her ineffective-assistance claim on direct appeal.
STANDARD OF REVIEW	In a criminal appeal from county court, the district court acts as an intermediate appellate court and reviews for error appearing on the record or abuse of discretion. A higher appellate court generally applies the same record-based review, independently reviews questions of law and statutory interpretation, and reviews a sentence within statutory limits for abuse of discretion. Whether an ineffective-assistance claim can be decided on direct appeal is reviewed as a question of law based on whether the record is sufficient to resolve deficient performance and prejudice without an evidentiary hearing.

PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Miranda M. Collins v. State of Nebraska

TOPICS

sentencing ineffective assistance statutory interpretation appellate procedure criminal procedure

PRACTICE AREAS

criminal law criminal procedure sentencing ineffective assistance of counsel statutory interpretation

QUESTIONS PRESENTED

1. Whether the county court abused its discretion by imposing a \$750 fine and one-year driver's-license revocation for misdemeanor operating a motor vehicle to avoid arrest.
2. Whether Nebraska statutes authorized the county court to deduct fines and costs from Collins' appearance-bond deposit.
3. Whether Collins established ineffective assistance of counsel on direct appeal based on counsel's failure to present additional information concerning the hardship a license revocation would cause.

HOLDINGS

1. The county court did not abuse its discretion by imposing a \$750 fine and revoking Collins' driver's license for one year. The sentence was within the statutory limits, and the record supported consideration of the nature and circumstances of the offense.
2. Neb. Rev. Stat. § 29-2206(3) authorized the county court to deduct fines and costs from Collins' appearance-bond deposit, and Neb. Rev. Stat. § 29-901 did not prohibit that deduction.
3. The record on direct appeal refuted Collins' claim that counsel provided ineffective assistance by failing to present additional sentencing information.

KEY QUOTATIONS

“We read § 29-901 as providing that generally, 90 percent of the bond deposit is to be returned to the defendant; however, § 29-2206 provides a specific exception to that general rule in that it allows the court to deduct fines and costs from the bond deposit prior to return of the remainder, if any.” (593-594)

“We conclude that the record on direct appeal refutes Collins’ claim of ineffective assistance of counsel.” (598)

FACTUAL BACKGROUND

During a traffic stop, an officer detected the odor of marijuana and asked Collins to exit her vehicle for a search. Collins refused, locked the doors, rolled up the windows, and sped away at a high rate of speed through a residential neighborhood, crossing traffic and disregarding a traffic sign. Pursuant to a plea agreement, the State reduced the charge from a Class IV felony to a Class I misdemeanor and added obstruction; Collins pleaded

guilty to both. The county court imposed fines, revoked her driver's license for one year, and applied most of her appearance-bond deposit to fines and costs.

PROCEDURAL HISTORY

The county court accepted Collins' guilty pleas to operating a motor vehicle to avoid arrest, a Class I misdemeanor, and obstructing a peace officer, also a Class I misdemeanor. It imposed fines, revoked Collins' driver's license for one year, and applied the balance of her appearance-bond deposit to fines and costs. The county court denied her motions for new trial and to reconsider sentence. The district court affirmed the convictions and sentences, and the Nebraska Supreme Court affirmed the district court's order.

DISPOSITION

affirmed

CASES CITED

- State v. Valentino, 305 Neb. 96, 939 N.W.2d 345 (2020)
- State v. Canaday, 307 Neb. 407 (2020)
- State v. Martinez, 306 Neb. 516, 946 N.W.2d 445 (2020)
- State v. Wilson, 306 Neb. 875, 947 N.W.2d 704 (2020)
- State v. Theisen, 306 Neb. 591, 946 N.W.2d 677 (2020)
- State v. Price, 306 Neb. 38, 944 N.W.2d 279 (2020)
- State v. Zamarron, 19 Neb. Ct. App. 349, 806 N.W.2d 128 (2011)
- State v. McKichan, 219 Neb. 560, 364 N.W.2d 47 (1985)
- State v. Street, 306 Neb. 380, 945 N.W.2d 450 (2020)
- In re Estate of Psota, 297 Neb. 570, 900 N.W.2d 790 (2017)
- Shipler v. General Motors Corp., 271 Neb. 194, 216, 710 N.W.2d 807, 829 (2006)
- State v. Anderson, 305 Neb. 978, 943 N.W.2d 690 (2020)
- State v. Mrza, 302 Neb. 931, 926 N.W.2d 79 (2019)