

SUPREME COURT OF GEORGIA

Miller v. State

288 Ga. 153 (Ga. 2010) · No. S10G0670 · Decided November 1, 2010

SUMMARY

The Supreme Court of Georgia held that Terry Lynn Miller's challenges to a suspended probation revocation and his request for a county-paid transcript became moot after he completed a substance abuse treatment program and returned to probation. Because Miller did not demonstrate adverse collateral consequences, the court vacated the Court of Appeals' opinion and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Thompson, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	November 1, 2010
DOCKET	S10G0670
DISPOSITION	vacated
PROCEDURAL POSTURE	The Supreme Court of Georgia granted Miller's petition for certiorari to review the Court of Appeals' affirmance of the trial court's denial of his motion for a new trial and request for a free transcript of his probation-revocation hearing.
STANDARD OF REVIEW	Mootness is reviewed as a jurisdictional issue; the court examined whether the claims remained justiciable when the Court of Appeals granted discretionary review.
PRECEDENTIAL VALUE	Published opinion; precedential Georgia Supreme Court decision.
PARTIES	Terry Lynn Miller v. The State

TOPICS

- mootness
- appellate procedure
- probation
- post-conviction relief
- criminal procedure

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether Miller's challenge to the suspended probation revocation remained justiciable after he completed the substance-abuse treatment program and returned to probation under the original conditions.
2. Whether Miller's related claim for a county-paid transcript of the probation-revocation hearing remained justiciable after the probation revocation was suspended.
3. Whether the Court of Appeals' opinion should be vacated because Miller's claims were moot when that court granted his application for appeal.

HOLDINGS

1. Miller's challenge to the probation revocation became moot when he successfully completed the substance-abuse treatment program and the partial sentence revocation was suspended.
2. A matter does not become moot when adverse collateral consequences continue to affect the party, but Miller failed to show such consequences on the record, and the court declined to presume them under the circumstances.
3. Miller's claim that he was entitled to a county-paid transcript of the probation-revocation hearing also became moot when the probation revocation was suspended.

KEY QUOTATIONS

"Because Miller's claims were moot at the time the Court of Appeals granted his application for appeal, we vacate the opinion of that court and remand the case to the Court of Appeals for further proceedings consistent with this opinion." (702 S.E.2d at 139)

FACTUAL BACKGROUND

Miller pleaded guilty in 2006 to possessing cocaine and was sentenced to fifteen years on probation. In 2008, the trial court found that he violated probation by possessing and using cocaine and revoked two years of his sentence, but suspended the revocation conditioned on successful completion of substance-abuse treatment. Miller completed the program on July 13, 2009, and returned to probation under the original terms before the Court of Appeals granted his application for appeal.

PROCEDURAL HISTORY

Miller pleaded guilty to possession of cocaine and received a fifteen-year probationary sentence. After the trial court found him in violation of probation and revoked two years of his sentence, subject to suspension upon successful completion of substance-abuse treatment, Miller sought a new trial and a county-paid transcript. The trial court denied both requests, and the Court of Appeals affirmed. While Miller's discretionary appeal application was pending, he completed treatment and returned to probation under the original conditions. The Supreme Court vacated the Court of Appeals' opinion and remanded because the claims were moot when the Court of Appeals granted the application.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded to the Court of Appeals for further proceedings consistent with the Supreme Court's opinion.

CASES CITED

- Miller v. State, 301 Ga. App. 706, 689 S.E.2d 46 (2009)
- Parris v. State, 232 Ga. 687, 689, 208 S.E.2d 493 (1974)
- Baker v. State, 240 Ga. 431, 241 S.E.2d 187 (1978)
- Ritchie v. State, 257 Ga. App. 149, 570 S.E.2d 435 (2002)
- In the Interest of I.S., 278 Ga. 859, 862, 607 S.E.2d 546 (2005)

OPINION

THOMPSON, J.

702 S.E.2d 137 (2010) MILLER v. The STATE. No. S10G0670. Supreme Court of Georgia. November 1, 2010. *138 James C. Bonner, Jr., Atlanta, Timothy L. Eidson, Cordele, for appellant. Denise D. Fachini, Dist. Atty., Cheri L. Nichols, Asst. Dist. Atty., for appellee. THOMPSON, Justice. Appellant Terry Lynn Miller pled guilty in 2006 to one count of possession of cocaine and was sentenced to 15 years on probation.

In 2008, the State filed a petition accusing Miller of violating the terms of his probation by testing positive for the use of cocaine. The trial court found Miller in violation of probation by possessing and using cocaine and revoked two years of his sentence.

The trial court also ruled, however, that it would suspend the revocation of probation upon the condition that Miller successfully complete a substance abuse treatment program. Miller moved for a new trial challenging the sufficiency of the evidence and requested that the State provide him a free transcript of the revocation hearing.

The trial court denied both motions, holding with regard to the transcript that Miller has no absolute right to transcripts at the State's expense in post-conviction proceedings. Miller filed an application for appeal in the Court of Appeals and on July 13, 2009, while his application was pending, Miller was released from the substance abuse program and returned to probation under the original terms and conditions.

The Court of Appeals granted Miller's application for discretionary appeal and ultimately affirmed the decision of the trial court. Miller v. State, 301 Ga.App. 706, 689 S.E.2d 46 (2009). We granted Miller's petition for certiorari but for the reasons that follow, we vacate the Court of Appeals'

opinion and remand to that court. It is undisputed that Miller's partial sentence revocation was suspended when he successfully completed a substance abuse treatment program on July 13, 2009, two days before his application for appeal was granted by the Court of Appeals.

Therefore, Miller's appeal challenging his now-suspended probation revocation and his related claim that he is entitled to a county-paid transcript of the revocation hearing became moot as of July 13, 2009. The fact that he remains on probation pursuant to his original conviction and subject to the powers of the court does not negate the mootness of his claims challenging his probation revocation proceedings at the time they were filed in the Court of Appeals.

While a matter does not become moot if adverse collateral consequences continue to plague the affected party, *Parris v. State*, 232 Ga. 687, 689, 208 S.E.2d 493 (1974), [Miller has] not shown adverse collateral consequences on the record, *Baker v. State*, 240 Ga. 431, 241 S.E.2d 187 (1978); *Ritchie v. State*, 257 Ga.App. 149, 570 S.E.2d 435 (2002), and we decline to *139 presume them under these circumstances.

[Cit.] *In the Interest of I.S.*, 278 Ga. 859, 862, 607 S.E.2d 546 (2005). Because Miller's claims were moot at the time the Court of Appeals granted his application for appeal, we vacate the opinion of that court and remand the case to the Court of Appeals for further proceedings consistent with this opinion. Judgment vacated and case remanded with direction.

All the Justices concur.