

INDIANA SUPREME COURT

Fight v. State

768 N.E.2d 881 (Ind. 2002) · No. 19S01-0203-CR-191 · Decided March 22, 2002

SUMMARY

The Indiana Supreme Court granted transfer and held that the statutory limitation on consecutive sentences applied because attempted murder was not listed as a crime of violence under the version of Indiana Code section 35-50-1-2 in effect when the offenses were committed. The court vacated the defendant’s eighty-year sentence and remanded for resentencing, limiting the total term to fifty-five years. The court summarily affirmed the portions of the Court of Appeals decision addressing sufficiency of the evidence and double jeopardy.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Randall T. Shepard, Chief Justice; All Justices concur
JURISDICTION	Indiana
DECIDED	March 22, 2002
DOCKET	19S01-0203-CR-191
DISPOSITION	vacated
PROCEDURAL POSTURE	Following convictions and sentencing in the DuBois Circuit Court, the Indiana Court of Appeals affirmed. The Indiana Supreme Court granted Fight's petition to transfer, vacated the sentence, and remanded for resentencing; it summarily affirmed the portions of the Court of Appeals opinion concerning sufficiency of the evidence and double jeopardy.
STANDARD OF REVIEW	De novo review of the statutory limitation governing consecutive sentences
PRECEDENTIAL VALUE	Published and precedential Indiana Supreme Court opinion
PARTIES	Charles Lee Fight, Jr. v. State of Indiana

TOPICS

- sentencing
- statutory interpretation
- appellate procedure
- criminal procedure
- double jeopardy

PRACTICE AREAS

Criminal law

Criminal procedure

Sentencing

Appellate procedure

QUESTIONS PRESENTED

1. Whether Indiana Code section 35-50-1-2(c) limited the aggregate consecutive sentences imposed for Fight's felony convictions.
2. Whether attempted murder and criminal mischief were crimes of violence under the version of Indiana Code section 35-50-1-2 applicable when Fight committed and was tried for the offenses.
3. Whether the convictions and sentence should otherwise be affirmed on the sufficiency-of-the-evidence and double-jeopardy issues addressed by the Court of Appeals.

HOLDINGS

1. Indiana Code section 35-50-1-2(c) limited the total consecutive terms imposed because the convictions arose out of an episode of criminal conduct and, under the applicable 1998 statute, the offenses were not crimes of violence.
2. The fact that one attempted murder resulted in serious bodily injury did not remove the sentence from the statutory limitation because the serious-bodily-injury language had been repealed and replaced by the statutory list of crimes of violence.
3. The maximum aggregate term authorized under the applicable statute was fifty-five years, the presumptive sentence for a felony one class higher than attempted murder.

KEY QUOTATIONS

"This statute limits a court's authority in imposing consecutive sentences if the convictions are not for "crimes of violence" and the convictions "arise out of an episode of criminal conduct."" (768 N.E.2d at 881)

"Appellant's erroneous sentence is VACATED and the case is REMANDED to the trial court for resentencing consistent with Indiana Code § 35-50-1-2 (1998)." (768 N.E.2d at 881)

FACTUAL BACKGROUND

Following a jury trial, Fight was convicted of three counts of attempted murder and one count of criminal mischief. The trial court imposed forty-year sentences for each attempted-murder conviction and a three-year sentence for criminal mischief, ordering the sentences to produce an aggregate executed term of eighty years. The convictions arose out of an episode of criminal conduct, and one attempted-murder victim suffered serious bodily injury.

PROCEDURAL HISTORY

A jury convicted Fight of three counts of attempted murder and one count of criminal mischief. The trial court imposed an aggregate executed sentence of eighty years, and the Court of Appeals affirmed both the convictions and sentence. On transfer, the Indiana Supreme Court held that the consecutive-sentence limitation in Indiana Code section 35-50-1-2 applied and remanded for resentencing.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded for resentencing consistent with Indiana Code section 35-50-1-2 (1998). The trial court could hold a new sentencing hearing, with or without additional evidence; order additional briefing; or prepare a new sentencing order without a hearing or additional briefing if deemed unnecessary.

CASES CITED

- Fight v. State, 759 N.E.2d 1131 (Ind. Ct. App. 2001)
- Ellis v. State, 736 N.E.2d 731, 736-37 (Ind. 2000)
- Greer v. State, 684 N.E.2d 1140, 1141-42 (Ind. 1997)