

COURT OF APPEALS OF MARYLAND

Hammonds v. State

436 Md. 22 (2013) · Decided December 3, 2013

SUMMARY

The Maryland Court of Appeals considered whether a trial court properly revoked Terry Wayne Hammonds's probation for allegedly committing direct criminal contempt and violating Maryland's witness-retaliation statute. The court held that the record did not support a finding of direct criminal contempt based on Hammonds's tearing up his probation papers in the courtroom. It further held that the statute did not require a threat to be communicated to the victim or witness, or made with the belief that it would be communicated to that person.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Greene, J.
JURISDICTION	Maryland
DECIDED	December 3, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Hammonds sought review of the revocation of his probation based on findings that he committed direct criminal contempt by tearing up his probation papers in the courtroom and violated Maryland Criminal Law § 9-303(a) by making retaliatory threats against a victim. The Court of Appeals reviewed the Court of Special Appeals' unreported decision affirming the revocation.
STANDARD OF REVIEW	The State must prove a probation violation by a preponderance of the evidence. The decision whether to revoke probation is reviewed for abuse of discretion, including whether the trial court erroneously construed the probation conditions, made clearly erroneous or legally insufficient factual findings, or acted arbitrarily or capriciously.
PRECEDENTIAL VALUE	Published precedential opinion of the Maryland Court of Appeals
PARTIES	Terry Wayne Hammonds v. State

TOPICS

- probation
- criminal procedure
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

Criminal law

Criminal procedure

Probation and revocation

Contempt

Statutory interpretation

Appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence supported a finding that Hammonds committed direct criminal contempt by tearing up his probation papers in the courtroom after sentencing.
2. Whether Maryland Criminal Law § 9-303(a) requires a retaliatory threat to be communicated directly to the victim or witness, or made with the belief that it would be communicated to that person.
3. Whether the trial court could revoke probation when one of the two grounds for revocation was unsupported by legally sufficient evidence.

HOLDINGS

1. The record did not support a finding of direct criminal contempt because the paper-tearing incident did not interrupt the order of the court or interfere with the dignified conduct of court business, and the evidence did not establish the required willful obstruction.
2. Section 9-303(a) does not require that a threat be communicated directly to the victim or witness, or that the defendant believe the threat would be communicated to that person.
3. The revocation order could not stand because the trial court relied on both the unsupported contempt finding and the alleged violation of § 9-303(a). The case had to be remanded for the trial court to determine whether to revoke probation based solely on the statutory violation.

KEY QUOTATIONS

“Direct contempt is committed in the presence of the trial judge or so near to him or her as to interrupt the court’s proceedings, while constructive contempt is any other form of contempt.” (436 Md. at 33)

“The inquiry at the probation revocation proceeding, then, should have been whether the evidence showed, by a preponderance of the evidence, that Petitioner willfully and in the presence of the presiding judge, “interrupted the order of the court and interfered with the dignified conduct of the court’s business.”” (436 Md. at 37)

“The elements of the offense are (1) an intentional threat to harm another person, (2) made with the intent of retaliating against a victim or witness.” (436 Md. at 51)

FACTUAL BACKGROUND

Hammonds was convicted of second-degree assault arising from an incident involving his former girlfriend, Audrey Wilgis, who gave a victim-impact statement at sentencing. He received a ten-year sentence, with all but eighteen months suspended, followed by three years of probation conditioned on obeying all laws. After sentencing, while seated near the courtroom exit, Hammonds tore up his personal copy of the probation papers; while being escorted to lockup, he stated that Wilgis had signed her death warrant and would be sorry in a year and a half, and later repeated the statements to other detainees.

PROCEDURAL HISTORY

After Hammonds was convicted of second-degree assault and placed on probation, the State petitioned to revoke probation based on his courtroom conduct and statements made after sentencing. The Circuit Court for Baltimore County revoked probation and imposed the previously suspended sentence. The Court of Special Appeals affirmed. The Court of Appeals reversed the intermediate appellate judgment in part and remanded for further proceedings limited to whether probation should be revoked based solely on the alleged violation of § 9-303(a).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Special Appeals was directed to vacate the Circuit Court for Baltimore County's judgment and remand to that court for further proceedings to determine whether probation should be revoked solely for a violation of Maryland Criminal Law § 9-303(a), which could independently violate the probation condition requiring Hammonds to obey all laws.

CASES CITED

- Wink v. State, 317 Md. 330, 332, 338-39, 563 A.2d 414, 415, 418 (1989)
- State v. Dopkowski, 325 Md. 671, 678, 602 A.2d 1185, 1188 (1992)
- State v. Roll, 267 Md. 714, 717, 734, 298 A.2d 867, 870, 879 (1973)
- Jones v. State, 32 Md. App. 490, 491-92, 362 A.2d 660, 661-62 (1976)
- Smith v. State, 382 Md. 329, 338, 855 A.2d 339, 344 (2004)
- Ashford v. State, 358 Md. 552, 562-63, 570, 750 A.2d 35, 40-41, 43 (2000)
- King v. State, 400 Md. 419, 433 n. 3, 441, 929 A.2d 169, 177 n. 3, 182 (2007)
- Dorsey v. State, 356 Md. 324, 343, 739 A.2d 41, 51-52 (1999)
- In re Ann M., 309 Md. 564, 568-69, 525 A.2d 1054, 1056-57 (1987)
- Giant of Md., Inc. v. State's Attorney, 274 Md. 158, 176, 334 A.2d 107, 117-18 (1975)
- Gibson v. State, 328 Md. 687, 690, 695-96, 616 A.2d 877, 878-79, 881-82 (1992)
- Dean v. State, 291 Md. 198, 203, 434 A.2d 552, 555 (1981)
- Mitchell v. State, 320 Md. 756, 761, 764, 580 A.2d 196, 199-200 (1990)
- Wilkins v. State, 293 Md. 335, 336, 340-41, 444 A.2d 445, 446, 448 (1982)
- Usiak v. State, 413 Md. 384, 402, 396, 993 A.2d 39, 50, 46 (2010)
- Chase v. State, 309 Md. 224, 238-39, 522 A.2d 1348, 1355 (1987)
- Howlett v. State, 295 Md. 419, 456 A.2d 375 (1983)
- Briggs v. State, 413 Md. 265, 274-76, 992 A.2d 433, 439-40 (2010)
- Harris v. State, 331 Md. 137, 145, 626 A.2d 946, 950 (1993)

- *Moosavi v. State*, 355 Md. 651, 664-65, 736 A.2d 285, 292 (1999)
- *Abbott v. State*, 190 Md. App. 595, 619, 621, 989 A.2d 795, 809-10 (2010)
- *Parker v. State*, 189 Md. App. 474, 484-87, 985 A.2d 72, 78-79 (2009)
- *Mayor of Baltimore v. Chase*, 360 Md. 121, 131, 756 A.2d 987, 993 (2000)
- *Tracy v. State*, 423 Md. 1, 19, 22, 31 A.3d 160, 170, 172 (2011)
- *Kushell v. Department of Natural Resources*, 385 Md. 563, 577, 870 A.2d 186, 193 (2005)
- *State v. Jones*, 642 So. 2d 804, 806 n. 3 (Fla. App. 5th Dist. 1994)
- *Bloom v. Illinois*, 391 U.S. 194, 202, 88 S. Ct. 1477, 1482, 20 L. Ed. 2d 522, 529 (1968)
- *Smith v. State*, 306 Md. 1, 7, 11, 506 A.2d 1165, 1168, 1170 (1986)
- *Baynard v. State*, 318 Md. 531, 536, 540, 569 A.2d 652, 655-56 (1990)