

SUPREME COURT OF SOUTH CAROLINA

Gay v. Ariail, 381 S.C. 341

673 S.E.2d 418 (2009) · No. No. 26592 · Decided February 9, 2009

SUMMARY

The Supreme Court of South Carolina held that a person who met the statutory definition of a youthful offender could apply for expungement even if sentenced under an adult penalty provision. The court reversed the circuit court's determination that Larry Tucker Gay was ineligible to have his expungement application considered, while noting that expungement remained discretionary.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Waller; Chief Justice Toal; Justice Pleicones; Justice Beatty; Justice Kittredge
JURISDICTION	South Carolina
DECIDED	February 9, 2009
DOCKET	No. 26592
DISPOSITION	reversed
PROCEDURAL POSTURE	Gay appealed the circuit court's order ruling that, because he had been sentenced as an adult, he was ineligible to apply for expungement of his criminal record.
STANDARD OF REVIEW	De novo review of the interpretation and application of the expungement and youthful-offender statutes.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Carolina; precedential within South Carolina.
PARTIES	Larry Tucker Gay, Jr. v. Robert M. Ariail, in his official capacity as Solicitor, Thirteenth Judicial Circuit, South Carolina Law Enforcement Division

TOPICS

- statutory interpretation
- criminal procedure
- remedies
- sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a person who met the statutory definition of a youthful offender at the time of conviction was eligible to apply for expungement under South Carolina Code section 22-5-920(B), even though the person was sentenced under an adult penalty provision.
2. Whether Gay's conviction qualified for expungement consideration as a first, nonviolent misdemeanor conviction committed when he was between seventeen and twenty-five years old.

HOLDINGS

1. A defendant who meets the statutory definition of a youthful offender is convicted as a youthful offender for purposes of South Carolina Code section 22-5-920(B), regardless of whether the court imposes a sentence under an adult penalty provision.
2. Gay was eligible to apply for expungement consideration because he was between seventeen and twenty-five when convicted, pleaded guilty to a nonviolent misdemeanor, and satisfied the first-offense requirements identified by section 22-5-920(B).

KEY QUOTATIONS

“Under the clear and unambiguous terms of the statute, Gay was convicted as a “youthful offender” and was therefore entitled to have his application for expungement considered.” (381 S.C. at 345)

“The clear import of the above statute is that a person who meets the definition of “youthful offender” is “convicted” regardless of the manner of sentencing, and is eligible to apply for expungement if the requirements of § 22-5-920(b) are met.” (381 S.C. at 346)

FACTUAL BACKGROUND

In 1990, at age twenty-two, Gay pleaded guilty to assault and battery of a high and aggravated nature and received a ten-year sentence suspended on five years' probation. Sixteen years later, he sought expungement of the conviction. The circuit court denied eligibility based on its conclusion that Gay had been sentenced as an adult rather than as a youthful offender.

PROCEDURAL HISTORY

Gay pleaded guilty to assault and battery of a high and aggravated nature in 1990 and received a ten-year sentence suspended on five years' probation. In 2006, he applied for expungement. The circuit court ruled that he was ineligible under South Carolina Code section 22-5-920 because he had been sentenced as an adult. The Supreme Court of South Carolina reversed that ruling.

DISPOSITION

reversed

CASES CITED

- State v. Dingle, 376 S.C. 643, 659 S.E.2d 101 (2008)
- State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007), cert. denied, 128 S. Ct. 1872, 170 L. Ed. 2d 751 (2008)
- State v. Gaines, 380 S.C. 23, 667 S.E.2d 728 (2008)
- Creel v. State, 262 S.C. 558, 206 S.E.2d 825 (1974)
- Brown v. State, 265 S.C. 516, 220 S.E.2d 125 (1975), cert. denied, 426 U.S. 939, 96 S. Ct. 2657, 49 L. Ed. 2d 392 (1976)
- State v. Rogers, 338 S.C. 435, 527 S.E.2d 101 (2000)
- Morris v. State, 371 S.C. 278, 639 S.E.2d 53 (2006)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/south-carolina-supreme-court-of-south-carolina/2009/gay-v-ariail-381-s-c-341-o9q2qe80>