

SUPREME COURT OF WASHINGTON

State of Washington v. Natasha Tucker

State v. Tucker, 246 P.3d 1275 (Wash. 2011) · No. No. 84952-8 · Decided February 10, 2011

SUMMARY

The Washington Supreme Court held that the State failed to timely initiate proceedings to revoke Natasha Tucker's deferred disposition before the juvenile court's jurisdiction expired. A community supervision officer's report recommending that the matter later be set for revocation was not a written motion satisfying the applicable procedural requirements. The court reversed the Court of Appeals and remanded for the convictions to be vacated and the case dismissed with prejudice.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Washington
DECIDED	February 10, 2011
DOCKET	No. 84952-8
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Washington Supreme Court granted Tucker's petition for review of the Court of Appeals' decision affirming the juvenile trial court's refusal to dismiss the case and its revocation of her deferred disposition.
STANDARD OF REVIEW	De novo review of whether a timely revocation proceeding was instituted and whether the juvenile court retained jurisdiction.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Natasha Tucker v. State of Washington

TOPICS

[criminal procedure](#)[appellate procedure](#)[statutory interpretation](#)[remedies](#)[restitution criminal](#)

PRACTICE AREAS

[juvenile criminal law](#)[criminal procedure](#)[appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the juvenile court retained jurisdiction to revoke Tucker's deferred disposition when the community supervision officer filed a report recommending that the matter be set for revocation if Tucker failed to verify payment of restitution, but no written motion to revoke was filed before the supervision period expired.
2. Whether Tucker's convictions had to be vacated and the case dismissed with prejudice after the juvenile court lost jurisdiction.

HOLDINGS

1. A supervision officer's report that conditionally recommends setting a matter for revocation is not a written motion seeking current relief and does not institute revocation proceedings under the governing rules.
2. Because no timely revocation motion was filed before the deferred disposition period expired, the Court of Appeals' decision must be reversed and the trial court must vacate Tucker's convictions and dismiss the case with prejudice.

KEY QUOTATIONS

"The report was plainly not a motion to adjudicate compliance with Tucker's restitution obligation; it stated only that 'should Natasha be unable to provide verification of payment of her remaining financial obligations, probation recommends that this matter be set out for revocation.'" (1276)

FACTUAL BACKGROUND

Tucker was 14 when she threw a rock through a friend's living room window during an argument over an iPod. She pleaded guilty to residential burglary and malicious mischief and received a deferred disposition requiring payment of \$2,630.40 in restitution. Although she largely complied with community supervision, she had not fully paid restitution by the end of the deferred period. A November 7, 2008, supervision report recommended setting the matter for revocation if she could not verify payment, but no formal motion to revoke was filed before the supervision period expired.

PROCEDURAL HISTORY

Tucker pleaded guilty to residential burglary and malicious mischief and received a deferred disposition subject to restitution and community supervision. When the State sought revocation after the deferred period expired, the juvenile trial court held that a probation report had timely initiated revocation proceedings, denied Tucker's motion to dismiss, and revoked the deferred disposition. The Court of Appeals affirmed, and the Washington Supreme Court reversed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals and remand to the trial court to vacate Tucker's convictions and dismiss the case with prejudice.

CASES CITED

- State v. N.S.T., 156 Wash. App. 444, 232 P.3d 584 (2010)
- State v. Todd, 103 Wash. App. 783, 789-90, 14 P.3d 850 (2000)

OPINION

State v. Tucker 246 P.3d 1275

PER CURIAM.

246 P.3d 1275 (2011) STATE of Washington, Respondent, v. Natasha TUCKER, Petitioner. No. 84952-8. Supreme Court of Washington, En Banc. Considered February 3, 2011. Decided February 10, 2011. Vanessa Mi-jo Lee, Washington Appellate Project, Seattle, WA, for Petitioner. Ann Marie Summers, King County Prosecutor's Office, Seattle, WA, for Respondent. PER CURIAM. ¶ 1 At issue is whether the State initiated a proceeding to revoke Natasha Tucker's deferred disposition before the juvenile court's jurisdiction over her expired. We grant Tucker's petition for review and hold that the State failed to timely institute revocation proceedings. ¶ 2 Tucker was 14 years old when she threw a rock through a friend's living room window while arguing over an iPod. The State charged her with residential burglary and malicious mischief. Tucker agreed to plead guilty, and she received a deferred disposition. The juvenile court ordered her to pay \$2,630.40 in restitution as a term of community supervision. Tucker largely complied with the terms of supervision, but by the end of the deferred period, she had not fully paid restitution. The court therefore extended the deferred period for one more year, until November 30, 2008, and set a review hearing for November 7, 2008. ¶ 3 On the day of the review hearing, Tucker's community supervision officer submitted a report to the court stating that Tucker had completed all conditions except *1276 full payment of restitution. Noting that Tucker would exhaust her 24-month time frame for completing her deferred disposition on December 13, 2008, the officer recommended that the matter be set for a revocation hearing after December 13 should Tucker be unable to prove by then that she had paid restitution. ¶ 4 The court's minutes for the November 7, 2008, hearing state that "JPC will move to revoke deferred. Parties agree to strike today's hearing and set for revocation." Clerk's Papers (CP) at 42. The next court appearance was set for December 15, 2008. On that date, the court continued the matter to December 30, 2008, because Tucker intended to move to dismiss the charges based on completion of her deferred disposition. The probation department also submitted a second report on December 15 noting that Tucker did well on community supervision but that she and her family were unable to pay the balance of the restitution. The report stated that the department had no recommendation and would defer to the court but that if the court revoked the deferred disposition, the department would recommend no further sanctions. ¶ 5 On December 30, the State moved to continue the hearing because it was not prepared to argue Tucker's motion to dismiss the charges. The trial court

continued the matter to January 6, 2009. At that hearing, Tucker argued that the State had failed to move to revoke her deferred disposition before the deferral period ended, depriving the court of jurisdiction and giving it no choice but to dismiss the charges. The trial court ruled that the report the probation office filed on November 7 initiated revocation proceedings before the end of the supervision period. It therefore denied Tucker's motion to dismiss. At the ensuing revocation hearing, the court revoked the deferred disposition. ¶ 6 The Court of Appeals affirmed, agreeing with the trial court that the November 7 report instituted revocation proceedings. *State v. N.S.T.*, 156 Wash.App. 444, 232 P.3d 584 (2010). Tucker petitioned for this court's review. ¶ 7 A juvenile court loses jurisdiction to enforce violations of custody conditions when the period of community custody terminates, unless a violation proceeding was instituted before termination. *State v. Todd*, 103 Wash.App. 783, 789-90, 14 P.3d 850 (2000). A juvenile's failure to comply with the terms of a deferred disposition is determined by a judge "upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor." RCW 13.40.127(7). The superior court criminal rules apply to juvenile offense proceedings when the juvenile court rules are not inconsistent. JuCR 1.4(b). The criminal rules provide that CR 7(b) governs motions in criminal cases. CrR 8.2. Under CR 7(b), a motion must state with particularity the relief sought and the grounds for relief. And the rule prescribes the proper form of a motion. ¶ 8 We disagree with the courts below that the November 7 report by Tucker's community supervision officer properly instituted revocation proceedings against her. The report was plainly not a motion to adjudicate compliance with Tucker's restitution obligation; it stated only that "should Natasha be unable to provide verification of payment of her remaining financial obligations, probation recommends that this matter be set out for revocation." CP at 57. The document did not meet the terms of CR 7(b) by seeking current relief and stating the basis for relief. There was no timely written motion asking the court to adjudicate whether Tucker violated a condition of her supervision. The juvenile court therefore lost jurisdiction when the period of supervision expired without the State filing a motion to revoke Tucker's deferred disposition. ¶ 9 We reverse the Court of Appeals and remand to the trial court to vacate Tucker's convictions and dismiss the case with prejudice.[1]

NOTES

[1] RCW 13.40.127(9) provides that at the conclusion of a deferred disposition, and upon a finding of full compliance, the court will vacate the conviction and dismiss the case with prejudice.