

SUPREME COURT OF OHIO

City of Cleveland Heights v. Lewis

129 Ohio St. 3d 389, 2011-Ohio-2673 (2011) · No. 2010-1203 · Decided June 8, 2011

SUMMARY

The Supreme Court of Ohio held that completion of a misdemeanor sentence does not moot an appeal when the circumstances show that the appellant neither acquiesced in the judgment nor abandoned appellate review, has a substantial stake in the conviction, and presents an issue for decision. The court concluded that Warren Lewis’s unsuccessful motion for a stay in the trial court, followed by his appeal, prevented his completed sentence from rendering the appeal moot, even though he did not seek a stay in the appellate court.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; O'Connor, C.J.; Pfeifer, J.; Lundberg Stratton, J.; Cupp, J.; McGee Brown, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	June 8, 2011
DOCKET	2010-1203
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Supreme Court of Ohio accepted a certified conflict from the Eighth District Court of Appeals concerning whether a misdemeanor appeal becomes moot when the defendant completes the sentence after unsuccessfully seeking a stay in the trial court but without seeking a stay in the appellate court.
STANDARD OF REVIEW	The court reviewed the certified legal question concerning mootness and the justiciability of a misdemeanor appeal.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	City of Cleveland Heights v. Warren Lewis

TOPICS

mootness

criminal procedure

appellate procedure

appellate jurisdiction

PRACTICE AREAS

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether a misdemeanor appeal becomes moot when the defendant completes or satisfies the sentence after unsuccessfully seeking a stay in the trial court but without seeking a stay in the appellate court.
2. Whether the expiration of inactive probation during the pendency of the appeal rendered Lewis's appeal moot.

HOLDINGS

1. Completion of a misdemeanor sentence does not render an appeal moot when the circumstances demonstrate that the appellant neither acquiesced in the judgment nor abandoned the right to appellate review, the appellant retains a substantial stake in the judgment of conviction, and the appellate court has subject matter to decide.
2. A misdemeanant who unsuccessfully seeks a stay in the trial court to prevent an intended appeal from becoming moot, and then appeals the conviction, is not required to seek an additional stay in the appellate court to avoid mootness.

KEY QUOTATIONS

“The completion of a sentence is not voluntary and will not moot an appeal if the circumstances surrounding it demonstrate that the appellant neither acquiesced in the judgment nor abandoned the right to appellate review, that the appellant has a substantial stake in the judgment of conviction, and that there is subject matter for the appellate court to decide.” (¶ 26)

“Thus, the expiration of an inactive period of probation during the pendency of an appeal does not render the appeal moot because the misdemeanant failed to file a motion to stay in the appellate court where the misdemeanant unsuccessfully sought a stay of execution from the trial court to prevent an intended appeal from being declared moot and subsequently filed a notice of appeal to challenge the conviction.” (¶ 26)

FACTUAL BACKGROUND

Police responded to a fight involving three teenage girls and decided to charge all three with disorderly conduct. Warren Lewis refused to provide information requested by an officer about his daughter, whom the officer intended to charge, and was arrested and charged with obstructing official business and resisting arrest. After a bench trial, Lewis was convicted of obstructing official business and received a sentence consisting of a fine, costs, suspended jail time, and inactive probation; he paid the fine and costs, sought a stay in the trial court, and appealed after the stay was denied.

PROCEDURAL HISTORY

Lewis was convicted in a bench trial of obstructing official business, acquitted of resisting arrest, and sentenced to a suspended three-day jail term, six months of inactive probation, a \$100 fine, and costs. After the trial court denied his motion to stay execution pending appeal, Lewis paid the fine and costs and appealed without seeking

a stay in the Eighth District. The Eighth District held that the appeal was not moot and reversed the conviction, and it certified a conflict with decisions of the Second and Seventh Districts. The Supreme Court of Ohio answered the certified question in the negative and affirmed the Eighth District's judgment.

DISPOSITION

affirmed

CASES CITED

- Dayton v. Huber, Montgomery App. No. 20425, 2004-Ohio-7249, 2004 WL 3561217
- Carroll Cty. Bur. of Support v. Brill, Carroll App. No. 05 CA 818, 2005-Ohio-6788
- Cleveland Hts. v. Lewis, 187 Ohio App. 3d 786, 2010-Ohio-2208, 933 N.E.2d 1146
- Oakwood v. Pfanner, Cuyahoga App. No. 90664, 2009-Ohio-464, 2009 WL 270500
- Cleveland v. Martin, Cuyahoga App. No. 79896, 2002 WL 568302
- St. Pierre v. United States, 319 U.S. 41 (1943)
- State v. Wilson, 41 Ohio St. 2d 236, 325 N.E.2d 236 (1975)
- State v. Berndt, 29 Ohio St. 3d 3, 504 N.E.2d 712 (1987)
- State v. Golston, 71 Ohio St. 3d 224, 643 N.E.2d 109 (1994)
- State v. Malone, 25 So. 3d 113 (La. 2009)
- In re S.J.K., 114 Ohio St. 3d 23, 2007-Ohio-2621, 867 N.E.2d 408