

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Parker

250 Pa. Super. 346 (Pa. Super. Ct. 1977) · Decided October 6, 1977

SUMMARY

The Pennsylvania Superior Court affirmed the revocation of the appellant’s probation and resulting sentence. It held that the lack of prior written notice of alleged technical probation violations did not require reversal because the lower court’s written opinion relied only on the direct violations for which the appellant had received notice.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Van der Voort, Judge; Cercone; Hoffman; Jacobs; Price; Spaeth; Voort; Watkins
JURISDICTION	Pennsylvania
DECIDED	October 6, 1977
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order revoking probation and imposing a sentence of one to three years' imprisonment.
PRECEDENTIAL VALUE	Published precedential opinion of the Superior Court of Pennsylvania.
PARTIES	Parker v. Commonwealth of Pennsylvania

TOPICS

- probation
- criminal procedure
- due process
- appellate procedure

PRACTICE AREAS

- Criminal procedure
- Probation revocation
- Appellate law

QUESTIONS PRESENTED

- Whether probation revocation and the resulting sentence were invalid because appellant did not receive written notice before the hearing of alleged technical probation violations mentioned during the hearing.

HOLDINGS

1. The lack of written notice of the technical probation violations did not require reversal because the lower court's written opinion relied solely on the direct violations for which appellant had received notice, and the Commonwealth did not present evidence of the technical violations in its case in chief.

KEY QUOTATIONS

“We believe that appellant’s argument of lack of notice of technical violations must be rejected as a basis for reversal.” (348)

“the factfinder must issue a “written statement . . . as to the evidence relied on and the reasons for [revocation] ”” (348)

FACTUAL BACKGROUND

After being sentenced in 1973 to imprisonment followed by three years of probation, appellant was arrested while on probation and later convicted of forgery, theft, receiving stolen property, and possession of a controlled substance. Before the probation revocation hearing, appellant and counsel received written notice of the arrest, trial, and convictions, which constituted the direct violations. At the hearing, a probation officer also described alleged technical violations only in response to defense questioning about the officer's sentencing recommendation, but the lower court's written opinion stated that revocation was based solely on the noticed direct violations.

PROCEDURAL HISTORY

Appellant was originally convicted and sentenced in 1973 to imprisonment followed by three years of probation. While on probation, he was arrested, convicted of additional crimes, and sentenced. After a probation violation hearing, the lower court revoked probation and imposed a one-to-three-year prison sentence. The Superior Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Morrissey v. Brewer, 408 U.S. 471, 489, 92 S. Ct. 2593, 2604, 33 L. Ed. 2d 484 (1972)
- Commonwealth v. Alexander, 232 Pa. Super. 57, 331 A.2d 836 (1974)
- Commonwealth v. Kates, 452 Pa. 102, 305 A.2d 701 (1973)
- Gagnon v. Scarpelli, 411 U.S. 778, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973)