

SUPREME COURT OF MINNESOTA

State v. Cottew

746 N.W.2d 632 (Minn. 2008) · No. No. A06-785 · Decided January 31, 2008

SUMMARY

The Minnesota Supreme Court held that the three Austin/Modtland findings required before revoking probation are not required when a district court imposes an intermediate sanction, such as local incarceration, for a probation violation. The court also held that Minnesota law permits, but does not require, extending probation when intermediate sanctions are imposed, and affirmed in part and reversed in part.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	G. Barry Anderson, Justice
JURISDICTION	Minnesota
DECIDED	January 31, 2008
DOCKET	No. A06-785
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cottew appealed a district court order imposing local incarceration as an intermediate sanction for probation violations. The Minnesota Court of Appeals affirmed the sanction and modified the order to extend probation during the sanctions. The Minnesota Supreme Court affirmed the sanction but reversed the court of appeals' modification and reinstated the district court's order.
STANDARD OF REVIEW	The imposition of intermediate sanctions for probation violations is reviewed for abuse of discretion. The district court's interpretation of statutes and rules is reviewed as a legal question.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Minnesota; precedential.
PARTIES	Toyie Diane Cottew v. State of Minnesota

TOPICS

- probation
- criminal procedure
- sentencing
- statutory interpretation

PRACTICE AREAS

criminal law

criminal procedure

probation

QUESTIONS PRESENTED

1. Whether the three findings required by *State v. Austin* and *State v. Modtland* before revocation of probation are also required before a district court imposes local incarceration as an intermediate sanction for a probation violation.
2. Whether Minnesota Rule of Criminal Procedure 27.04 requires a district court to extend or continue probation when imposing intermediate sanctions after a probation violation.
3. Whether the district court abused its discretion by imposing incarceration as an intermediate sanction based on its policy of sanctioning failures to contact probation agents.

HOLDINGS

1. The *Austin/Modtland* findings are required before probation is revoked and the underlying sentence is executed, but are not required before a district court imposes local incarceration as an intermediate sanction for a probation violation.
2. The district court did not abuse its discretion in imposing local incarceration as an intermediate sanction.
3. Minnesota Rule of Criminal Procedure 27.04 does not require a district court to place a defendant on probation or extend probation when imposing intermediate sanctions; Minnesota Statutes section 609.135 permits intermediate sanctions with or without probation.

KEY QUOTATIONS

“Thus, we conclude that our prior cases do not require the three Austin findings before the imposition of any incarceration as a consequence for a probation violation; rather, we have only required this analysis before a defendant's probation is revoked and the underlying sentence is executed.” (637)

“If a probation violation has been established, the court has broad discretion in determining whether to impose an intermediate sanction. But that discretion is not unlimited.” (638)

“We hold that such an extension is permitted, but is not required, by rule 27.04 of the Minnesota Rules of Criminal Procedure.” (640)

FACTUAL BACKGROUND

Cottew pleaded guilty to fourth-degree driving while impaired and received a 90-day jail sentence that was stayed while she served two years of supervised probation. She later admitted failing to make required payments and failing to report to her probation agent. The district court imposed local jail time as an intermediate sanction, later clarifying that the sanction was not execution of the underlying sentence and allowing half of the jail term to be served on electronic home monitoring.

PROCEDURAL HISTORY

Cottew pleaded guilty in Aitkin County District Court to fourth-degree DWI, received a stayed jail sentence, and was placed on supervised probation. After she admitted violating probation conditions, the district court imposed local jail time as an intermediate sanction. The court of appeals affirmed and ordered that probation be extended for the duration of the sanctions. The supreme court affirmed the imposition of the sanction, reversed the required extension of probation, and reinstated the district court's order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The court reversed the court of appeals to the extent it modified the district court's order to extend probation and reinstated the district court's order. The opinion does not state a separate remand instruction.

CASES CITED

- State v. Austin, 295 N.W.2d 246, 250-51 (Minn. 1980)
- State v. Modtland, 695 N.W.2d 602, 605-06 (Minn. 2005)
- State v. Cottew, 728 N.W.2d 268, 271-74 (Minn. App. 2007)
- State v. B.Y., 659 N.W.2d 763, 768-69 (Minn. 2003)
- Gagnon v. Scarpelli, 411 U.S. 778, 781-82, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973)
- Morrissey v. Brewer, 408 U.S. 471, 480, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972)
- Pearson v. State, 308 Minn. 287, 289-90, 241 N.W.2d 490, 492 (1976)
- Bearden v. Georgia, 461 U.S. 660, 668-69, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983)
- United States v. Reed, 573 F.2d 1020, 1024 (8th Cir. 1978)
- Burns v. United States, 287 U.S. 216, 222-23, 53 S. Ct. 154, 77 L. Ed. 266 (1932)
- State by Beaulieu v. Indep. Sch. Dist. No. 624, 533 N.W.2d 393, 396 (Minn. 1995)
- Erickson v. Sunset Mem'l Park Ass'n, 259 Minn. 532, 543, 108 N.W.2d 434, 441 (1961)