

SUPREME COURT OF MONTANA

In re D. A. S., 343 Mont. 360

184 P.3d 349, 2008 MT 168 (Mont. 2008) · No. DA 06-0849 · Decided May 13, 2008

SUMMARY

The Supreme Court of Montana reviewed whether probation conditions imposed on D.A.S., a youth adjudicated delinquent and designated a serious youth offender, were illegal. The court held that probation conditions may relate either to the offense or to the offender, and affirmed drug and alcohol prohibitions, a potential curfew, and a GED requirement as reasonably connected to rehabilitation, supervision, or protection of society.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Rice; W. William Leaphart; Patricia Cotter; James C. Nelson; John Warner
JURISDICTION	Montana
DECIDED	May 13, 2008
DOCKET	DA 06-0849
DISPOSITION	affirmed
PROCEDURAL POSTURE	D.A.S. appealed the conditions of probation imposed by the District Court after his juvenile-court adjudication as a delinquent youth and serious juvenile offender and subsequent transfer of jurisdiction and supervision to the District Court.
STANDARD OF REVIEW	Challenges to probation conditions are reviewed first for legality and then for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Montana
PARTIES	D.A.S. v. State of Montana

TOPICS

probation sentencing criminal procedure standard of review appellate procedure

PRACTICE AREAS

juvenile law criminal procedure sentencing probation appellate procedure

QUESTIONS PRESENTED

1. Whether probation conditions prohibiting illegal drugs and alcohol, requiring drug and alcohol testing, permitting a probation-officer-imposed curfew, and requiring GED completion were illegal because they lacked a nexus to the offense for which D.A.S. was sentenced.
2. Whether the District Court abused its discretion by imposing those four probation conditions.

HOLDINGS

1. A sentencing judge may impose a probation condition if it has a nexus either to the offense for which the offender is being sentenced or to the offender personally; a direct connection to the charged offense is not always required.
2. The conditions prohibiting illegal drugs and alcohol, requiring testing, and prohibiting drug paraphernalia were lawful and were not an abuse of discretion.
3. The curfew condition was reasonable and lawful and did not constitute an abuse of discretion.
4. The GED-completion condition was appropriate and lawful and did not constitute an abuse of discretion.

KEY QUOTATIONS

“a sentencing judge may impose a particular condition of probation so long as the condition has a nexus to either the offense for which the offender is being sentenced, or to the offender himself or herself.” (184 P.3d at 352)

FACTUAL BACKGROUND

D.A.S. was fourteen when the State alleged that he committed two counts of sexual assault. After admitting one count, he was adjudicated a delinquent youth and serious juvenile offender, committed to the Department of Corrections, and placed in sex-offender treatment. While at Pine Hills, he committed two additional sexual offenses and did not successfully complete treatment. After transfer to adult supervision, the District Court imposed probation conditions concerning drugs and alcohol, curfew, and GED completion based on his personal circumstances, rehabilitation needs, educational history, and need for supervision.

PROCEDURAL HISTORY

D.A.S. admitted one count of sexual assault and was adjudicated a delinquent youth and serious juvenile offender. Shortly before he reached majority, he waived a transfer hearing, stipulated to transfer of jurisdiction to the District Court and adult supervision, and agreed to level-one-offender classification. The District Court imposed eighteen probation conditions, including restrictions on drugs and alcohol, a possible curfew, and GED completion; D.A.S. challenged four conditions on appeal. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Ashby, 2008 MT 83, 342 Mont. 187, 179 P.3d 1164
- State v. Ommundson, 1999 MT 16, 293 Mont. 133, 974 P.2d 620

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