

COURT OF APPEALS OF GEORGIA

Mussington v. The State

No. A25A0859 (Ga. Ct. App. June 16, 2026) · No. A25A0859 · Decided June 16, 2026

SUMMARY

The Georgia Court of Appeals held that several special conditions of Demari Mussington’s probation were void because they were overly broad or insufficiently specific. The court vacated Conditions 1, 6, 7, 8, and 19, affirmed the employment-approval requirement in Condition 5 and the post-office-box approval provision in Condition 9, and remanded for resentencing. The decision also addresses appellate jurisdiction over a motion to vacate a purportedly void sentence filed outside the statutory sentence-modification period.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Barnes, Presiding Judge; Brown, Chief Judge; Watkins, Judge
JURISDICTION	Georgia Court of Appeals
DECIDED	June 16, 2026
DOCKET	A25A0859
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mussington appealed the denial of his pro se motion to vacate a void sentence filed after the statutory period for ordinary sentence modification had expired. The Court of Appeals affirmed some probation conditions, vacated others as void and overbroad, and remanded for resentencing.
STANDARD OF REVIEW	The court reviewed whether Mussington raised a colorable claim that his sentence was void and reviewed the challenged probation conditions under the rule that conditions must be reasonably related to the offense and rehabilitation, stated with reasonable specificity, and not overbroad.
PRECEDENTIAL VALUE	Published opinion; precedential Court of Appeals of Georgia decision.
PARTIES	Demari Mussington v. The State

TOPICS

probation

sentence modification

post-conviction relief

appellate procedure

criminal procedure

PRACTICE AREAS

criminal procedure

sentencing

probation

appellate procedure

post-conviction relief

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction to review the denial of a motion to vacate a sentence filed after the statutory period for sentence modification had expired.
2. Whether special probation conditions prohibiting or regulating contact with minors, images of minors, relationships, sexually oriented material, post-office boxes, and driving were void because they were vague or overbroad.
3. Whether a probation condition requiring approval of employment by the Community Supervision Officer was void because it lacked specificity and allegedly authorized arbitrary employment decisions.

HOLDINGS

1. When the statutory period for modifying a sentence has expired, a defendant may directly appeal the denial of a motion to vacate a void sentence only by raising a colorable claim that the sentence is actually void.
2. Probation conditions 1, 6, 7, 8, and 19 were void and had to be vacated because they were overly broad and lacked reasonable specificity or a rational relation to the sentencing objectives.
3. The provision of Condition 9 requiring prior written approval from the Community Supervision Officer before renting a post-office box was valid, reasonably related to rehabilitation, and affirmed.
4. Condition 5, requiring approval of Mussington's employment by the Community Supervision Officer, was not vague or overbroad and was affirmed.

KEY QUOTATIONS

“A trial court has broad discretion in sentencing to impose conditions reasonably related to the nature and circumstances of the offense and rehabilitative goals of probation. But such conditions must be stated with reasonable specificity to afford the probationer notice of the groups and places he must avoid. And the conditions must not be so broadly worded as to encompass groups and places not rationally related to the purpose of the sentencing objective.” (at 3)

“Judgment affirmed in part, reversed in part, and case remanded for resentencing.” (at 8)

FACTUAL BACKGROUND

Mussington was convicted of aggravated child molestation and child molestation. After the original life sentence was vacated, the trial court resentenced him to 25 years in confinement followed by probation for life and imposed numerous special probation conditions. The challenged conditions regulated contact with minors, employment, images of minors, relationships, sexually oriented material, post-office boxes, and driving.

PROCEDURAL HISTORY

Following a jury trial, Mussington was convicted of aggravated child molestation and child molestation and received a life sentence with the first 25 years in confinement and the remainder on probation. The Court of Appeals previously affirmed the conviction but vacated the sentence because Georgia law does not permit probation of a portion of a life sentence. On resentencing, the trial court imposed 25 years in confinement followed by probation for life, merged the child-molestation conviction into the aggravated-child-molestation conviction, and imposed general and special probation conditions. Mussington did not directly appeal the resentencing order, but later moved to vacate the sentence as void; the trial court denied the motion, and he appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for resentencing consistent with the opinion, including vacatur of Conditions 1, 6, 7, 8, and 19; affirmation of Condition 5; and affirmation only of the post-office-box provision of Condition 9.

CASES CITED

- Mussington v. State, Case No. A19A2260 (Ga. Ct. App. Feb. 27, 2020)
- Frazier v. State, 302 Ga. App. 346, 348 (691 S.E.2d 247) (2010)
- Jones v. State, 278 Ga. 669, 670 (604 S.E.2d 483) (2004)
- Harris v. State, Harris v. State, 365 Ga. App. 218, 219 (1) (878 S.E.2d 63) (2022)
- Bryant v. State, 363 Ga. App. 349, 351-53 (870 S.E.2d 33) (2022)
- Vangelder v. State, 375 Ga. App. 611, 613 (1) (917 S.E.2d 182) (2025)
- Padilla-Garcia v. State, 372 Ga. App. 9, 12 (1) (a) (903 S.E.2d 680) (2024)
- Bryan v. State, 371 Ga. App. 769, 779-82 (5) (903 S.E.2d 160) (2024)
- Ellis v. State, 221 Ga. App. 103, 104 (1) (470 S.E.2d 495) (1996)
- Rutledge v. State, 360 Ga. App. 824, 829-30 (1) (b) (861 S.E.2d 793) (2021)