

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Lewis v. State

298 So. 2d 540 (Fla. Dist. Ct. App. 1974) · No. No. 74-221 · Decided August 9, 1974

SUMMARY

The Florida Fourth District Court of Appeal considered whether an order withholding adjudication and placing the defendant on five years of probation, conditioned on serving ten months in county jail, was void. The court distinguished cases involving an adjudication of guilt and an imposed sentence, holding that the probation order was valid under Florida law. After the defendant escaped and his probation was revoked, the court affirmed the revocation order and resulting sentence.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Walden, J.; Mager, J.; Downey, J.
JURISDICTION	Florida
DECIDED	August 9, 1974
DOCKET	No. 74-221
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lewis appealed from an order revoking probation after he escaped while serving a jail term imposed as a condition of probation.
PRECEDENTIAL VALUE	Published opinion; precedential value under Florida appellate law not otherwise specified in the provided text.
PARTIES	Raymond Lonnie Lewis v. State of Florida

TOPICS

- probation
- sentencing
- criminal procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal procedure
- probation
- sentencing
- statutory interpretation

QUESTIONS PRESENTED

1. Whether an order withholding adjudication and placing a defendant on probation for five years, conditioned on the defendant first spending ten months in county jail, was null and void.

2. Whether Florida law permits imprisonment in county jail as a condition of probation when adjudication of guilt is withheld and no sentence has been imposed.

HOLDINGS

1. An order withholding adjudication of guilt and placing a defendant on probation for five years, conditioned on the defendant first spending ten months in the Orange County Jail, is valid under Florida law.
2. Cases holding a probationary portion of an imposed sentence void when the sentence included county-jail confinement did not apply because Lewis had not been adjudicated guilty and had not received a sentence before probation was imposed.

KEY QUOTATIONS

“It is our conclusion that the order withholding adjudication of guilt and placing appellant on probation for five years, on the condition that he first spend ten months in the Orange County Jail, was valid and in acceptable accord with the law of this state.” (298 So. 2d at 542)

FACTUAL BACKGROUND

Lewis pleaded guilty to a felony for which the maximum possible penalty was five years in state prison. The court withheld adjudication and placed him on five years of probation, conditioned on his spending ten months in the Orange County Correctional Facility with credit for time served. While serving that term, Lewis escaped; after his apprehension, probation was revoked, adjudication was entered, and he received a five-year prison sentence with credit for time served.

PROCEDURAL HISTORY

Lewis pleaded guilty to a felony carrying a possible maximum penalty of five years in state prison. The trial court withheld adjudication, placed him on five years of probation, and required him to spend ten months in the Orange County Correctional Facility as a probation condition. After Lewis escaped, the court revoked probation, adjudicated him guilty, and sentenced him to five years in state prison with credit for time served. The District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 280 So. 2d 518 (Fla. 3d D.C.A. 1973)
- Bryant v. State, 290 So. 2d 122 (Fla. 3d D.C.A. 1974)
- Harris v. State, 288 So. 2d 552 (Fla. 3d D.C.A. 1974)
- Kohn v. State, 289 So. 2d 48 (Fla. 3d D.C.A. 1974)
- McNeill v. State, 287 So. 2d 745 (Fla. 3d D.C.A. 1974)

- Reynolds v. State, 293 So. 2d 743 (Fla. 3d D.C.A. 1974)
- Cleveland v. State, 287 So. 2d 347 (Fla. 3d D.C.A. 1973)
- Hutchins v. State, 286 So. 2d 244 (Fla. 3d D.C.A. 1973)
- Metchik v. State, 286 So. 2d 269 (Fla. 3d D.C.A. 1973)
- Mylks v. State, 285 So. 2d 434 (Fla. 3d D.C.A. 1973)
- Phillips v. United States, 212 F.2d 327 (8th Cir. 1954)
- Martin v. State, 243 So. 2d 189 (Fla. 4th D.C.A. 1971)
- Ex parte Hazlett, 137 Cal. App. 734, 31 P.2d 448 (1934)
- People v. Fisher, 237 Mich. 504, 212 N.W. 70 (1927)
- State v. Williams, 237 So. 2d 69 (Fla. 2d D.C.A. 1970)
- Sanders v. State, 268 So. 2d 553 (Fla. 2d D.C.A. 1972)