

SUPREME COURT OF THE STATE OF DELAWARE

Velazquez v. State

Velazquez · No. No. 411, 2014 · Decided February 25, 2015

SUMMARY

The Delaware Supreme Court reviewed Angel Velazquez's appeal from his conviction for escape after conviction and his sentencing as a habitual offender. Applying Supreme Court Rule 26(c), the Court concluded that the appeal was wholly without merit, affirmed the Superior Court's judgment, and found counsel's motion to withdraw moot.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Chief Justice Strine; Justice Holland; Justice Valihura
JURISDICTION	Delaware
DECIDED	February 25, 2015
DOCKET	No. 411, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a Superior Court conviction for Escape after Conviction, denial of a motion for judgment of acquittal, habitual-offender adjudication, and eight-year sentence.
STANDARD OF REVIEW	Under Supreme Court Rule 26(c), the Court determines whether counsel made a conscientious examination of the record and law for arguable claims and independently reviews the record to determine whether the appeal is so frivolous that it may be decided without adversary presentation.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; precedential status is not otherwise specified in the opinion text.
PARTIES	Angel Velazquez v. State of Delaware

TOPICS

- criminal procedure
- appellate procedure
- sentencing
- sentencing guidelines

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appeal presented any arguably meritorious issue under Supreme Court Rule 26(c).
2. Whether the evidence was sufficient to support Velazquez's conviction for Escape after Conviction.
3. Whether the Superior Court could adjudicate Velazquez a habitual offender and impose the statutory maximum sentence when the qualifying offense was classified as a violent felony.
4. Whether the eight-year sentence was invalid because it exceeded or departed from the SENTAC sentencing guidelines.

HOLDINGS

1. The appeal was wholly without merit and presented no arguably appealable issue; counsel had made the required conscientious examination of the record and law.
2. Escape after Conviction, including a class D felony offense, is properly classified as a violent felony under 11 Del. C. § 4201(c).
3. Once Velazquez was adjudicated a habitual offender under 11 Del. C. § 4214(a), and Escape after Conviction was treated as a violent felony, the Superior Court was required to impose at least the statutory maximum sentence for the qualifying class D felony and therefore had no discretion to impose less than eight years.

FACTUAL BACKGROUND

Velazquez was serving a six-month sentence at the Plummer Center, a Level IV work-release facility. He received a pass to leave the facility but failed to answer required host-residence check-ins and did not return by the 8:00 p.m. curfew, leading the warden to place him on escape status. He returned the next morning and, after receiving Miranda warnings, stated that he had spent the night at Rodney Square after walking there from New Castle. A jury convicted him of Escape after Conviction, and the Superior Court later adjudicated him a habitual offender based on four prior felony convictions.

PROCEDURAL HISTORY

Velazquez was convicted by a jury in the Superior Court of Escape after Conviction. The Superior Court denied his post-trial motion for judgment of acquittal and his request to bar habitual-offender adjudication, then adjudicated him a habitual offender under 11 Del. C. § 4214(a) and sentenced him to eight years at Level V imprisonment. On direct appeal, counsel filed a no-merit brief and motion to withdraw under Supreme Court Rule 26(c), Velazquez filed a written submission challenging his sentence, and the State moved to affirm.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 2014 WL 642281, at *2 (Del. Feb. 7, 2014)
- Forehand v. State, 997 A.2d 673, 676 (Del. 2010)
- Penson v. Ohio, 488 U.S. 75, 81, 83 (1988)
- McCoy v. Court of Appeals of Wisconsin, 486 U.S. 429, 442 (1988)
- Anders v. California, 386 U.S. 738, 744 (1967)

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