

SUPREME COURT OF LOUISIANA

State v. Malone

25 So. 3d 113 (La. 2009) · No. 2008-KP-2253 · Decided December 1, 2009

SUMMARY

The Supreme Court of Louisiana held that a misdemeanor defendant's voluntary payment of a fine before seeking appellate review rendered review of the conviction and sentence moot. The court reaffirmed the traditional Louisiana rule, while recognizing that payment may not constitute acquiescence when made under circumstances demonstrating an intent to preserve appellate review. The court affirmed the denial of the defendant's writ application as moot.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson, J.; Kimball, C.J.; Knoll, J.; Weimer, J.; Benjamin Jones, Justice Pro Tempore
JURISDICTION	Louisiana
DECIDED	December 1, 2009
DOCKET	2008-KP-2253
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant sought supervisory writ review of his misdemeanor simple-battery conviction after paying the fine and costs imposed by the city court. The Louisiana Court of Appeal, Third Circuit, denied the writ as moot. The Louisiana Supreme Court granted the defendant's writ application to reconsider the governing mootness jurisprudence and affirmed the denial.
STANDARD OF REVIEW	The court considered de novo whether the defendant's satisfaction of the misdemeanor sentence rendered the requested appellate review moot.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; binding majority precedent on the stated mootness and preservation rule.
PARTIES	Justin Malone v. State of Louisiana

TOPICS

mootness

writ of certiorari

appellate procedure

criminal procedure

constitutional law

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether payment of a misdemeanor fine before seeking appellate review renders subsequent review of the conviction or sentence moot.
2. Whether Louisiana Constitution article I, section 19 requires modification or abandonment of Louisiana's traditional rule that satisfaction of a criminal sentence moots appellate review.
3. Whether a defendant may preserve appellate review of a misdemeanor conviction by demonstrating that payment of the fine was not voluntary acquiescence in the judgment.

HOLDINGS

1. When a defendant voluntarily pays a fine imposed as a misdemeanor sentence before applying for appellate review, and does not record an objection, protest, or reservation of appellate rights, the payment satisfies the sentence and renders subsequent review of the conviction or sentence moot.
2. To preserve an issue for review in a misdemeanor case where the sentence consists of a fine, the defendant must either request appellate review before paying the fine or make the payment under circumstances that record that it is not voluntary if payment occurs before review is sought.
3. Article I, section 19 of the Louisiana Constitution did not create a new right of review that displaced the traditional rule governing the mootness of criminal cases after sentence satisfaction.

KEY QUOTATIONS

“In order to preserve any issue for review in a misdemeanor criminal case where the sentence consists of a fine, the defendant must either request appellate review prior to paying the fine, or make payment of the fine under circumstances that record the payment is not voluntarily made, if payment occurs before appeal.” (124-125)

“We hold that, based on the facts presented, and in keeping with our decisions in Morris and Verdin, the defendant's voluntary payment of the fine imposed as a misdemeanor sentence prior to applying for appellate review, and without recording any objection to the fine, renders any subsequent review of the conviction or sentence moot.” (125)

FACTUAL BACKGROUND

Justin Malone was charged with misdemeanor simple battery arising from a fight outside a restaurant or bar in Calcasieu Parish. After pleading not guilty, he was tried and convicted in Lake Charles City Court on April 4, 2008, and sentenced to pay a \$150 fine plus costs or serve 30 days in jail. He paid the fine immediately after sentencing, without filing a notice of intent to seek review, requesting a stay or post-conviction bail, or recording that payment was made under protest or with a reservation of appellate rights.

PROCEDURAL HISTORY

Malone was convicted in Lake Charles City Court and sentenced to pay a \$150 fine plus costs, or serve 30 days in jail. He paid the fine immediately after sentencing, then filed a notice of intent to seek supervisory writ review approximately one month later. The court of appeal denied review as moot, and the Louisiana Supreme Court granted review but ultimately affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Morris, 328 So. 2d 65 (La. 1976)
- State v. Verdin, 192 La. 275, 187 So. 666 (1939)
- Cat's Meow, Inc. v. City of New Orleans, 720 So. 2d 1186 (La. 1998)
- Perschall v. State, 697 So. 2d 240 (La. 1997)
- Robin v. Concerned Citizens for Better Education in St. Bernard, Inc., 384 So. 2d 405 (La. 1980)
- City of Lafayette v. Trahan, 157 La. 305, 102 So. 409 (1924)
- State ex rel. Perilleux v. Wilder, 50 La. Ann. 388, 23 So. 203 (1898)
- St. Pierre v. United States, 319 U.S. 41 (1943)
- Fiswick v. United States, 329 U.S. 211 (1946)
- Jacobs v. New York, 388 U.S. 431 (1967)
- Carafas v. LaVallee, 391 U.S. 234 (1968)
- Sibron v. State of New York, 392 U.S. 40 (1968)
- United States v. Morgan, 346 U.S. 502 (1954)
- In re Winship, 397 U.S. 358 (1970)
- Jackson v. Virginia, 443 U.S. 307 (1979)
- State v. Goodjoint, 716 So. 2d 139 (La. App. 2 Cir. 1998)
- State v. Bosley, 691 So. 2d 347 (La. App. 2 Cir. 1997)
- Doerr v. Mobil Oil Corp., 774 So. 2d 119 (La. 2000)
- Borel v. Young, 989 So. 2d 42 (La. 2007) (on rehearing)