

SUPREME COURT OF INDIANA

Davidson v. State

926 N.E.2d 1023 (Ind. 2010) · No. 49S02-1001-CR-41 · Decided May 25, 2010

SUMMARY

The Indiana Supreme Court held that appellate review under Indiana Appellate Rule 7(B) may consider the totality of the penal consequences imposed in a sentence, including suspended time and other sentencing components. The court affirmed the defendant’s aggregate 545-day sentence, with 180 days executed and 365 days suspended to probation, and disapproved contrary Court of Appeals decisions.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Dickson; Chief Justice Shepard; Justice Sullivan; Justice Boehm; Justice Rucker
JURISDICTION	Indiana
DECIDED	May 25, 2010
DOCKET	49S02-1001-CR-41
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davidson appealed his sentence under Indiana Appellate Rule 7(B), arguing that his aggregate 545-day sentence was inappropriate. The Indiana Court of Appeals affirmed. The Indiana Supreme Court granted transfer to resolve conflicting approaches concerning whether the suspended portion of a sentence may be considered during appellate sentence review.
STANDARD OF REVIEW	Under Indiana Appellate Rule 7(B), an appellate court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the sentence is inappropriate in light of the nature of the offense and the character of the offender. Appellate review may consider the totality of the penal consequences imposed, including suspended portions and other sentencing components.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Desmond Davidson v. State of Indiana

TOPICS

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QUESTIONS PRESENTED

1. Whether appellate review under Indiana Appellate Rule 7(B) may consider the suspended portion of a criminal sentence and other penal consequences imposed by the trial court.
2. Whether Davidson's aggregate 545-day sentence was inappropriate in light of the nature of the offense and the character of the offender.

HOLDINGS

1. Appellate courts reviewing sentence appropriateness under Indiana Appellate Rule 7(B) may consider all aspects of the penal consequences imposed by the trial judge, including the portion of a sentence suspended to probation and other sentencing consequences.
2. The Court of Appeals correctly affirmed Davidson's sentence because Rule 7(B) review properly included consideration of the suspended portion of the 545-day sentence, and the judgment was affirmed.

KEY QUOTATIONS

“Upon the review of sentence appropriateness under Appellate Rule 7, appellate courts may consider all aspects of the penal consequences imposed by the trial judge in sentencing the defendant.” (926 N.E.2d at 1025)

“We decline to narrowly interpret the word “sentence” in Appellate Rule 7 to constrict appellate courts to consider only the appropriateness of the aggregate length of the sentence without considering also whether a portion of the sentence is ordered suspended or otherwise crafted using any of the variety of sentencing tools available to the trial judge.” (926 N.E.2d at 1025)

FACTUAL BACKGROUND

Davidson was convicted of auto theft, a Class D felony, and resisting law enforcement, a Class A misdemeanor. He received an aggregate sentence of 545 days, consisting of 180 executed days and 365 days suspended to probation. His sole appellate claim was that the sentence should be reviewed as a full 545-day sentence without considering the suspension.

PROCEDURAL HISTORY

Davidson was convicted of auto theft, a Class D felony, and resisting law enforcement, a Class A misdemeanor. The trial court imposed an aggregate 545-day sentence, with 180 days executed and 365 days suspended to probation. The Court of Appeals affirmed, and the Supreme Court of Indiana granted transfer and affirmed.

DISPOSITION

affirmed

CASES CITED

- Davidson v. State, 916 N.E.2d 954 (Ind. Ct. App. 2009)
- Jenkins v. State, 909 N.E.2d 1080 (Ind. Ct. App. 2009)
- Eaton v. State, 825 N.E.2d 1287 (Ind. Ct. App. 2005)
- Beck v. State, 790 N.E.2d 520 (Ind. Ct. App. 2003)
- Pagan v. State, 809 N.E.2d 915 (Ind. Ct. App. 2004)
- Cox v. State, 792 N.E.2d 898 (Ind. Ct. App. 2003)

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