

SUPREME COURT OF SOUTH CAROLINA

State v. Perkins, 378 S.C. 57

661 S.E.2d 366 (2008) · No. No. 26490 · Decided May 12, 2008

SUMMARY

The Supreme Court of South Carolina affirmed the imposition of Cedric Perkins's suspended sentence after his termination from a drug court program. The court held that a participant is entitled to notice and a hearing concerning whether the conditions of a suspended sentence were violated, but that courts may not review the drug court program's internal decision to terminate a participant.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Moore; Justice Waller; Justice Beatty; Acting Justice Diane Schafer Goodstein
JURISDICTION	South Carolina
DECIDED	May 12, 2008
DOCKET	No. 26490
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order terminating the defendant from the Thirteenth Circuit Drug Court Program and imposing his previously suspended sentence; the Supreme Court of South Carolina certified the appeal pursuant to Rule 204(b), SCACR.
STANDARD OF REVIEW	A trial court's determination whether a defendant violated a condition of a suspended sentence is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Cedric Emmanuel Perkins v. The State

TOPICS

- due process
- probation
- appellate procedure
- criminal procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court should review whether Perkins was properly terminated from the Thirteenth Circuit Drug Court Program based on positive sweat-patch test results and other alleged violations.
2. Whether a Drug Court Program participant is entitled to notice and a hearing before a suspended sentence may be imposed.
3. Whether the trial court properly imposed Perkins's original sentence after determining that he had been terminated from the Drug Court Program.

HOLDINGS

1. The court will not review whether a participant was properly terminated from a Drug Court Program because that inquiry concerns the program's internal rules and administration, matters over which the appellate court lacks authority.
2. A Drug Court Program participant is entitled to notice and a hearing before imposition of a suspended sentence to determine whether the participant in fact violated a condition of that sentence.
3. The trial court properly determined that Perkins violated a condition of his suspended sentence because successful completion of the Drug Court Program was undisputedly a condition and Perkins was undisputedly terminated from the program.

KEY QUOTATIONS

“Accordingly, while we hold that it is inappropriate for the courts to review whether a participant was properly terminated from a Drug Court Program, the participant is entitled to a hearing to determine whether he was in fact terminated from a Drug Court Program (i.e., whether the defendant violated a condition of his suspended sentence) before his sentence may be imposed.” (378 S.C. at 61)

“In our view, it would be improper for the judiciary to interject itself into such matters which are wholly internal and specific to each Program and to each participant. To do so would transform the Drug Court Programs into a judicially-supervised institution.” (378 S.C. at 60)

FACTUAL BACKGROUND

Perkins pleaded guilty to possession with intent to distribute crack cocaine and was sentenced to ten years' imprisonment, suspended on the condition that he successfully complete the Thirteenth Circuit Drug Court Program. He entered the program in September 2002 and was sanctioned eighteen times for violations including positive and missed drug tests, tardiness, missed appointments, and failure to pay fees. After a subsequent positive drug test, administrators recommended termination, and the trial court terminated him from the program and imposed the suspended sentence.

PROCEDURAL HISTORY

Perkins pleaded guilty to possession with intent to distribute crack cocaine and received a ten-year sentence suspended upon successful completion of the Thirteenth Circuit Drug Court Program. After numerous program violations and a positive drug test, program administrators recommended termination. Following a hearing, the trial court terminated him from the program and imposed the original sentence. The Supreme Court certified his appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Dangerfield v. State*, 376 S.C. 176, 181, 656 S.E.2d 352, 355 (2008)
- *State v. Miller*, 122 S.C. 468, 474-75, 115 S.E. 742, 745 (1923)
- *State v. Allen*, 370 S.C. 88, 94, 634 S.E.2d 653, 655 (2006)