

SUPREME COURT OF MONTANA

State v. Striplin

2009 MT 76 (Mont. 2009) · No. DA 08-0162 · Decided March 17, 2009

SUMMARY

The Supreme Court of Montana reviewed the revocation of Gail Lena Striplin’s suspended sentences for failure to pay restitution. The court affirmed the revocation because Striplin did not pay the Department of Corrections or verify payment to the credit card companies. It reversed and remanded the thirty-day jail condition, holding that the sentencing court lacked authority to impose that additional, more burdensome condition under the applicable statute.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; W. William Leaphart; Patricia Cotter; John Warner; Jim Rice
JURISDICTION	Montana
DECIDED	March 17, 2009
DOCKET	DA 08-0162
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Striplin appealed the revocation of her suspended sentences and the imposition of a thirty-day jail term as an additional condition of resentencing.
STANDARD OF REVIEW	A revocation of a deferred or suspended sentence is reviewed for abuse of discretion. Because Striplin was eligible for sentence review, the legality of her sentence was reviewed, including whether the sentencing court had statutory authority, whether the sentence complied with applicable sentencing parameters, and whether the court followed statutory mandates.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Montana; precedential.
PARTIES	Gail Lena Striplin v. State of Montana

TOPICS

- criminal procedure
- sentencing
- probation
- restitution criminal
- ex post facto

PRACTICE AREAS

Criminal law

Criminal procedure

Sentencing

Probation and sentence revocation

Restitution

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by revoking Striplin's suspended sentence based on her failure to pay restitution.
2. Whether the District Court had authority to impose a thirty-day jail term as a condition after revoking Striplin's suspended sentence.

HOLDINGS

1. The District Court did not abuse its discretion in revoking Striplin's suspended sentences because she failed to make the required restitution payments or take the required steps to determine whether the credit-card companies had been paid.
2. The District Court lacked authority under the version of § 46-18-203(7)(a)(iii), MCA, in effect when Striplin committed the offenses to impose a thirty-day jail term as an additional, more burdensome condition after revoking her suspended sentence.

KEY QUOTATIONS

“However, because the court revoked Striplin's suspended sentence under § 46-18-203(7)(a)(iii), MCA (2001), the addition of a condition requiring Striplin to spend thirty days in the Ravalli County Detention Center was an additional, more burdensome, condition, and the District Court had no authority to impose it.” (204 P.3d at 693)

“It is a violation of Article I, Section 10, of the United States Constitution and Article II, Section 31, of the Montana Constitution, to apply a statute enacted subsequent to the time a defendant commits an offense, which increases a defendant's punishment.” (204 P.3d at 692)

FACTUAL BACKGROUND

Striplin pleaded guilty to two felony deceptive-practices offenses arising from unauthorized credit-card charges and a false credit-card application. Her concurrent five-year suspended sentences required payment of approximately \$6,845.78 in restitution through the Department of Corrections to the credit-card companies. She never paid the Department of Corrections or the credit-card companies and never contacted the companies to verify payment, although she believed that transferring a diamond ring to the victim had satisfied the obligation. The District Court revoked her suspended sentences, found she lacked the ability to pay restitution, and imposed thirty days in jail instead.

PROCEDURAL HISTORY

Striplin pleaded guilty to two felony deceptive-practices charges and received concurrent five-year suspended sentences conditioned in part on payment of restitution. After the State petitioned to revoke the sentences for failure to pay restitution, the District Court revoked and resentenced her to concurrent five-year suspended

sentences and imposed thirty days in jail. The Montana Supreme Court affirmed the revocation but reversed the jail condition and remanded with instructions to strike it.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court was instructed to strike the condition requiring Striplin to serve thirty days in the Ravalli County Detention Center.

CASES CITED

- State v. Herd, 2004 MT 85, ¶ 22, 320 Mont. 490, 87 P.3d 1017
- State v. White, 2008 MT 464, ¶ 12, 348 Mont. 196, 199 P.3d 274
- State v. Stephenson, 2008 MT 64, ¶ 15, 342 Mont. 60, 179 P.3d 502
- State v. Martinez, 2008 MT 233, ¶ 15, 344 Mont. 394, 188 P.3d 1034
- State v. Senn, 2003 MT 52, ¶ 19, 314 Mont. 348, 66 P.3d 288
- State v. Rudolph, 2005 MT 41, ¶ 13, 326 Mont. 132, 107 P.3d 496
- State v. Muhammad, 2002 MT 47, ¶ 22, 309 Mont. 1, 43 P.3d 318
- State v. Tracy, 2005 MT 128, ¶¶ 16, 18, 20, 327 Mont. 220, 113 P.3d 297
- State v. Suiste, 261 Mont. 251, 253, 862 P.2d 399, 400 (1993)