

SUPREME COURT OF ARKANSAS

John William "Bill" Seamster, Jr. v. State of Arkansas

308 S.W.3d 567 (Ark. 2009) · No. CR 08-1331 · Decided May 7, 2009

SUMMARY

The Supreme Court of Arkansas held that completing the Reduction of Sexual Victimization Program was a condition of Seamster’s suspended imposition of sentence, not merely a condition of incarceration. The court affirmed revocation of his suspended sentence after finding that he inexcusably failed to complete the program, and reversed the court of appeals.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Elana Cunningham Wills
JURISDICTION	Arkansas
DECIDED	May 7, 2009
DOCKET	CR 08-1331
DISPOSITION	reversed
PROCEDURAL POSTURE	The Arkansas Supreme Court granted the State's petition to review the court of appeals' reversal of the circuit court's revocation of Seamster's suspended imposition of sentence.
STANDARD OF REVIEW	In a revocation proceeding, the State must prove a violation of a condition of suspension by a preponderance of the evidence. The circuit court's findings are upheld unless clearly against the preponderance of the evidence, with deference to the trial judge's credibility determinations. Issues of statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John William "Bill" Seamster, Jr. v. State of Arkansas

TOPICS

- probation
- criminal procedure
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court had jurisdiction to revoke Seamster's suspended imposition of sentence for conduct occurring during his incarceration and before his release.
2. Whether completion of the Reduction of Sexual Victimization Program was a condition of Seamster's suspended sentence or merely a condition of incarceration.
3. Whether treating completion of the program as an SIS condition imposed an illegal sentence exceeding the 120-day confinement limitation in Ark. Code Ann. § 5-4-304(d).
4. Whether the evidence was sufficient to establish an inexcusable violation of the SIS condition and whether the lack of a written revocation statement could be raised for the first time on appeal.

HOLDINGS

1. The circuit court had jurisdiction to revoke Seamster's SIS because the six-year imprisonment term and the ten-year SIS were imposed on separate counts and were ordered to run concurrently; the suspension therefore ran concurrently with the imprisonment under Ark. Code Ann. § 5-4-307(b)(2).
2. Completion of the Reduction of Sexual Victimization Program was a condition of Seamster's suspended sentence, not merely a condition of incarceration.
3. The RSVP condition did not create an illegal sentence or violate the 120-day limitation in Ark. Code Ann. § 5-4-304(d).
4. The circuit court's finding that Seamster inexcusably violated the RSVP condition was not clearly against the preponderance of the evidence, and the revocation was properly sustained.
5. Seamster could not raise on appeal his claim that the circuit court failed to provide a written statement of the evidence and reasons for revocation because he did not present that objection to the circuit court.

KEY QUOTATIONS

“Accordingly, completion of RSVP was a condition of Seamster's SIS, not a “condition of imprisonment” as he argues.” (571)

“The requirement for Seamster to complete RSVP—a rehabilitative program—was a condition of his SIS, and the circuit court's finding that Seamster inexcusably violated that condition of his SIS is not clearly against the preponderance of the evidence.” (573)

FACTUAL BACKGROUND

Seamster pleaded nolo contendere to two counts of first-degree sexual abuse and agreed to six years of imprisonment on one count and ten years' suspended imposition of sentence on the other. His plea statement and judgment required him to enroll in and complete the Reduction of Sexual Victimization Program before release from the Arkansas Department of Correction. He did not complete the program, refused its entry requirement that he admit guilt, and was released after completing the six-year prison term. The circuit court found that his failure was an inexcusable violation of the SIS condition and revoked the suspended sentence.

PROCEDURAL HISTORY

Seamster pleaded nolo contendere to two counts of first-degree sexual abuse and received six years' imprisonment on one count and ten years' suspended imposition of sentence on the other, with a requirement that he enroll in and complete the Reduction of Sexual Victimization Program. After his release, the State petitioned to revoke the SIS because he had not completed the program. The Crawford County Circuit Court revoked the SIS and imposed an additional six-year sentence. The court of appeals reversed, but the Arkansas Supreme Court reversed the court of appeals and affirmed the circuit court.

DISPOSITION

reversed

CASES CITED

- Seamster v. State, 103 Ark. App. 305, 288 S.W.3d 723 (2008)
- Brookshire v. Adcock, 2009 Ark. 207, 307 S.W.3d 22
- Thompson v. State, 342 Ark. 365, 28 S.W.3d 290 (2000)
- McCutchen v. Arkansas State Police, 2009 Ark. 204
- Harness v. State, 352 Ark. 335, 101 S.W.3d 235 (2003)
- Lewis v. State, 336 Ark. 469, 986 S.W.2d 95 (1999)
- DeHart v. State, 312 Ark. 323, 849 S.W.2d 497 (1993)
- Donaldson v. State, 370 Ark. 3, 257 S.W.3d 74 (2007)
- Brandon v. State, 300 Ark. 32, 776 S.W.2d 345 (1989)
- Jones v. State, 355 Ark. 630, 144 S.W.3d 254 (2004)
- Green v. State, 2009 Ark. 113, ___ S.W.3d ___
- Gavin v. State, 354 Ark. 425, 125 S.W.3d 189 (2003)
- Gates v. State, 353 Ark. 333, 107 S.W.3d 868 (2003)
- Phillips v. State, 101 Ark. App. 190, 272 S.W.3d 123 (2008)