

Supreme Court of the State of Washington

Opinion Information Sheet

Docket Number: 84952-8

Title of Case: State v. Tucker

File Date: 02/10/2011

Oral Argument Date:

SOURCE OF APPEAL

-----

Appeal from King County Superior Court

06-8-02835-1

Honorable Joan E Dubuque

JUSTICES

-----

COUNSEL OF RECORD

-----

Counsel for Petitioner(s)

Vanessa Mi-jo Lee

Attorney at Law

1511 3rd Ave Ste 701

Seattle, WA, 98101-3647

Counsel for Respondent(s)

Ann Marie Summers

King County Prosecutor's Office

516 3rd Ave Ste W554

Seattle, WA, 98104-2362

Prosecuting Atty King County

King Co Pros/App Unit Supervisor

W554 King County Courthouse

516 Third Avenue

Seattle, WA, 98104

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

NO. 84952 - 8

Respondent,

v.

En Banc

NATASHA TUCKER,

Petitioner.

Filed February 10, 2011

PER CURIAM -- At issue is whether the State initiated a proceeding to revoke Natasha Tucker's deferred disposition before the juvenile court's jurisdiction over her expired. We grant Tucker's petition for review and hold that the State failed to timely institute revocation proceedings.

Tucker was 14 years old when she threw a rock through a friend's living room window while arguing over an iPod. The State charged her with residential burglary and malicious mischief. Tucker agreed to plead guilty, and she received a deferred disposition. The juvenile court ordered her to pay \$2,630.40 in restitution as a term of community supervision. Tucker largely complied with the terms of supervision, but by the end of the deferred period, she had not fully paid restitution. The court therefore extended the deferred period for one more year, until November 30, 2008, and set a review hearing for November 7, 2008.

On the day of the review hearing, Tucker's community supervision

officer submitted a report to the court stating that Tucker had completed all conditions except full payment of restitution. Noting that Tucker would exhaust her 24-month time frame for completing her deferred disposition on December 13, 2008, the officer recommended that the matter be set for a revocation hearing after December 13 should Tucker be unable to prove by then that she had paid restitution.

The court's minutes for the November 7, 2008, hearing state that "JPC will move to revoke deferred. Parties agree to strike today's hearing and set for revocation." Clerk's Papers (CP) at 42. The next court appearance was set for December 15, 2008. On that date, the court continued the matter to December 30, 2008, because Tucker intended to move to dismiss the charges based on completion of her deferred disposition. The probation department also submitted a second report on December 15 noting that Tucker did well on community supervision but that she and her family were unable to pay the balance of the restitution. The report stated that the department had no recommendation and would defer to the court but that if the court revoked the deferred disposition, the department would recommend no further sanctions.

On December 30, the State moved to continue the hearing because it was not prepared to argue Tucker's motion to dismiss the charges. The trial court continued the matter to January 6, 2009. At that hearing, Tucker argued that the State had failed to move to revoke her deferred disposition before the deferral period ended, depriving the court of jurisdiction and giving it no choice

but to dismiss the charges. The trial court ruled that the report the probation office filed on November 7 initiated revocation proceedings before the end of the supervision period. It therefore denied Tucker's motion to dismiss. At the ensuing revocation hearing, the court revoked the deferred disposition.

No. 84952-8

Page 3

The Court of Appeals affirmed, agreeing with the trial court that the November 7 report instituted revocation proceedings. *State v. N.S.T.*, 156 Wn. App. 444, 232 P.3d 584 (2010). Tucker petitioned for this court's review.

A juvenile court loses jurisdiction to enforce violations of custody conditions when the period of community custody terminates, unless a violation proceeding was instituted before termination. *State v. Todd*, 103 Wn. App. 783, 789-90, 14 P.3d 850 (2000). A juvenile's failure to comply with the terms of a deferred disposition is determined by a judge "upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor." RCW 13.40.127(7). The superior court criminal rules apply to juvenile offense proceedings when the juvenile court rules are not inconsistent. JuCR 1.4(b). The criminal rules provide that CR 7(b) governs motions in criminal cases. CrR 8.2. Under CR 7(b), a motion must state with particularity the relief sought and the grounds for relief. And the rule prescribes the proper form of a motion.

We disagree with the courts below that the November 7 report by Tucker's community supervision officer properly instituted revocation

proceedings against her. The report was plainly not a motion to adjudicate compliance with Tucker's restitution obligation; it stated only that "should Natasha be unable to provide verification of payment of her remaining financial obligations, probation recommends that this matter be set out for revocation." CP at 57. The document did not meet the terms of CR 7(b) by seeking current relief and stating the basis for relief. There was no timely written motion asking the court to adjudicate whether Tucker violated a condition of her supervision. The juvenile court therefore lost jurisdiction when the period of supervision expired without the State filing a motion to revoke

No. 84952-8

Page 4

Tucker's deferred disposition.

We reverse the Court of Appeals and remand to the trial court to vacate Tucker's convictions and dismiss the case with prejudice.<sup>1</sup>

<sup>1</sup> RCW 13.40.127(9) provides that at the conclusion of a deferred disposition, and upon a finding of full compliance, the court will vacate the conviction and dismiss the case with prejudice.