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Summary of State v. District Court (Jackson), 121 Nev. Adv. Op. 4

Kenneth E. Hogan
Nevada Law Journal

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Recommended Citation

Hogan, Kenneth E., "Summary of State v. District Court (Jackson), 121 Nev. Adv. Op. 4" (2005). *Nevada Supreme Court Summaries*. 632.

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*State v. District Court (Jackson), 116 P.3d 834; 121 Nev. Adv. Op. 42 (Nev. 2005)*¹

CRIMINAL LAW AND PROCEDURE -- SENTENCING

Summary

Petitioner, seeking a writ of mandamus, contended that the district court abused its discretion by awarding defendant credit against her prison sentence for time served on house arrest as a condition of bail.²

Disposition/Outcome

Petition granted. The Nevada Supreme Court held that house arrest is not confinement within the meaning of NRS 176.055,³ which allows the district court discretion to award credit against the duration of a sentence for time “actually spent in confinement before conviction.”⁴

Factual & Procedural History

On September 26, 2002, Reno Police Officer Michael Scofield was responding to an accident when his motorcycle collided with Defendant Jackson’s vehicle. Officer Scofield died as a result of the collision.

A jury convicted Jackson of driving under the influence of a prohibited substance, resulting in death, a violation of NRS 484.3795. Following the verdict and after posting bail, Jackson was placed on house arrest.

During sentencing, Jackson asked the district court for a house arrest credit of 297 days, and the Division of Parole and Probation (the “Division”) informed the district court that Jackson was entitled to 297 days’ credit for time served. The district court followed the Division’s recommendation and sentenced Jackson to serve a prison term of 24 to 96 months with 297 days’ credit for time served.

Discussion

The Division viewed “residential confinement” as “confinement” under the statute, but the court reasoned that allowing credit for time served in house arrest negates the

¹ By Kenneth E. Hogan

² *Dist. Ct. (Jackson)*, 116 P.3d at 834.

³ *Id.*

⁴ The district court’s authority to award credit for time spent in pre-sentence confinement comes from NEV. REV. ST. § 176.055(1) (2004), which states in pertinent part:

Whenever a sentence of imprisonment in the county jail or state prison is imposed, the court may order that credit be allowed against the duration of the sentence, including any minimum term thereof prescribed by law, for the amount of time which the defendant has actually spent in confinement before conviction, unless his confinement was pursuant to a judgment of conviction for another offense.

legislative intent behind NRS 176.055. The history of the statute suggests that the Legislature intended to allow credit specifically for pre-sentence time spent in the county jail. Citing hearings from each of three post-adoption NRS 176.055 amendments, the court concluded that the Legislature understood “confinement” to be synonymous with “county jail time.”⁵

Further, the court reasoned that allowing credit for time spent on house arrest would defeat the legislative intent of statutes imposing mandatory prison sentences. Since Jackson had been convicted under NRS 484.3795, carrying a mandatory prison sentence, the court noted that “[c]learly the legislature intended for those convicted under this sentence to spend time in prison.”⁶ Further the court highlighted substantial differences between Jackson’s house arrest and incarceration in the county jail. Specifically, the court noted that “Jackson was free to leave her home on advance notice for matters such as grocery shopping, employment, laundry, medical appointments, counseling, and court appearances . . . [and] was even permitted to travel to California to get married and to Las Vegas for a deposition. Additionally, Jackson was allowed to reside in her own home and enjoy all of its comforts.”⁷

Conclusion

The court concluded that Jackson’s house arrest was merely a reasonable condition imposed upon her release on bail, and held that house arrest does not constitute time “actually spent in confinement” for which the duration of a sentence may be credited pursuant to NRS 176.055.

⁵ *Dist. Ct. (Jackson)*, 116 P.3d at 834.

⁶ *Id.*

⁷ *Id.*