STATE v. DAVIS, No. CR00-542997 (Aug. 14, 2003)

STATE OF CONNECTICUT v. TANAKA DAVIS.

2003 Ct. Sup. 9674

No. CR00-542997Connecticut Superior Court, Judicial District of Hartford at Hartford

August 14, 2003

[EDITOR'S NOTE: This case is unpublished as indicated by the issuing court.]

MEMORANDUM OF DECISION

FORD, MIANO, IANNOTTI, JUDGES.

BY THE DIVISION:

The petitioner Tanaka Davis had received a sentence on December 15, 2000 for a conviction for Burglary which sentence has been served and from which the Petitioner has been discharged.

However, having been convicted of 2 counts of Risk of Injury and 1 count of Sexual Assault 2nd Degree by a jury, the petitioner was sentenced to terms of 8 years execution suspended after serving 4 years and 10 years probation. The second consecutive to the first for a total effective sentence of 16 years execution suspended after 8 years with 10 years probation. In addition the court sentenced the petitioner for a period of 4 years upon the conviction to be served concurrently with the previous sentence.

Upon completion of the 1st hearing the Division of the Sentence Review Board was not satisfied that sufficient facts were developed by the state and the defense to clearly indicate that the sentence imposed was justified or appropriate.

Both incidents involved minors who were in custody, subsequent to the individual incidents, in a Juvenile Detention Center. One incident was disclosed by a third inmate to a corrections officer who developed the basis of the offense with the victim.

Both incidents occurred in an automobile owned by the petitioner. One resulted in an apology after a touching of a sexual nature and the other with a reprimand by the second victim to the offender after a more intrusive touching.

Both were described in the incident reports in the "arrest warrant applications." CT Page 9675

Counsel for the petitioner urged the Division to modify the sentence stressing that the sentence was excessive and disproportionate in the light of the nature of the offense, the petitioner's unblemished record prior to the burglary and the age of the petitioner.

The Division is of the opinion that the conduct demonstrated in this case, despite the petitioner's denial, was not of such a serious nature that is usually attached to a charge of Risk of Injury.

Although the Division is of the opinion that the sentence imposed is somewhat harsh, the modification we order this day is not going to leave petitioner free of penalty.

Pursuant to the Connecticut Practice Book § 43-23 et seq., the Sentence Review Division is limited in its scope of its review. The Division is to determine whether the sentence imposed "should be modified because it is inappropriate or disproportionate in the light of the nature of the offense, the character of the offender, the protection of the public interest and the deterrent, rehabilitative, isolative and denunciatory purposes for which the sentence was intended."

The Division is without authority to modify sentences except

in accordance with the provisions of the Connecticut Practice Book §43-28 et seq., and Connecticut General Statutes § 51-194 et seq.

Accordingly to more appropriately impose a penalty upon the petitioner the matter is referred to the Judicial District of Hartford and pursuant to General Statutes § 51-196, the Superior Court shall resentence the petitioner to a net effective sentence of:

Risk of Injury – Six years suspended after 2 years

Risk of Injury – Six years suspended after 2 years

Sexual Assault – Two years.

The second count shall be consecutive to the 1st count and the third count concurrent with the first two counts together with probation for 10 years.

The sentence is ordered modified accordingly.

FORD MIANO IANNOTTI

Judges Ford, Miano and Iannotti, participated in this decision. CT Page 9676

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