

COMMONWEALTH OF PENNSYLVANIA v. SCOTT N. NORTH, Defendant
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch
Criminal Action, No. 2119 of 2006

Pennsylvania Escape Statute, Work Release, Parole Department Supervision

1. The escape statute, 18 Pa.C.S.A. §5121, applied to the defendant who was a participant in the work release program, which is administered by the Franklin County Adult Probation Department.
2. Work release constitutes official detention under the statute.
3. The parole and probation exception to the escape statute does not apply to a defendant in work release, although the Franklin County Adult Probation Department oversees the work release program.

Appearances

Angela R. Krom, Esq., *First Assistant District Attorney*

Michael J. Toms, Esq., *Chief Public Defender*

OPINION

Walsh, J., August 31, 2007

Facts

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While serving a sentence at the Franklin County Jail for burglary, the defendant, Scott North, was placed in the Franklin County Pre-Release Program. This program is commonly referred to as the "work release program" and is administered by the Franklin County Adult Probation Department. On the afternoon of August 2, 2006, the defendant allegedly failed to return to the Franklin County Jail as the terms of the work release program obligated him to do. In connection with this incident, the defendant was charged with escape under 18 Pa.C.S.A. §5121.

Subsequently, the defendant filed an Omnibus Motion to Dismiss the escape charge arguing that, since the work release program in Franklin County is supervised by the Franklin County Adult Probation Department, the escape statute does not apply to the defendant. An evidentiary hearing developed the relevant facts, the parties submitted briefs supporting their positions, and the matter is ripe for the Court's decision.

Discussion

The escape statute applies to any individual who "unlawfully removes himself from official detention." 18 Pa.C.S.A. §5121(a). Unfortunately, the statute defines "official detention" without explicitly mentioning work release.^[1] Yet, the statute does include "any other detention for law enforcement

purposes" within the term "official detention." 18 Pa.C.S.A. §5121(e). Nonetheless, the defendant contends that a work release program fails to constitute "official detention," if the program is overseen by the Probation Department. As support for this argument, the defendant points to 18 Pa.C.S.A. §5121(e) which specifically excludes "supervision of probation or parole" from the definition of "official detention."

In this case, the defendant mistakenly posits the identity of the supervising department as the factor determining the statute's reach. However, case law construing the escape statute illustrates that work release is "official detention," and the scope of application depends only upon the type of program in which the defendant is enrolled. In construing 18 Pa.C.S.A. §5121(e), the Pennsylvania Superior Court has held that "work release programs are a form of detention for law enforcement purposes." Commonwealth v. Brown, 396 A.2d 377, 379 (Pa. Super. Ct. 1978). Subsequently, the Superior Court reaffirmed this holding. Commonwealth v. Edwards, 595 A.2d 183,184 (Pa. Super. Ct. 1991). Clearly, work release constitutes "official detention" under the statute.

Furthermore, both Brown and Edwards construe the statute solely on the basis of the defendant's status as a participant in work release. Consistently, both cases completely disregard which department of government was supervising the respective defendants at the time of their escapes. Crucially, the Pennsylvania Supreme Court, focusing solely on the defendant's participation in a particular form of "official detention," employed this status-centered analysis to resolve a case concerning a defendant's escape from house arrest. Commonwealth v. Wegley, 829 A.2d 1148 (Pa. 2003). In a case very similar to the present case, Wegley argued that he was not subject to the escape statute since the house arrest program was administered by the Adams County Probation and Parole Office. Id. The Supreme Court rejected this contention and decided the case based on Wegley's enrollment in house arrest. Id. at 1154. Clearly, the defendant's status within a corrections program controls the application of the escape statute. Which department of government happens to oversee the program is simply irrelevant to the analysis.

Conclusion

In light of the foregoing precedent, this Court finds that North was subject to "official detention" when he agreed to participate in the Franklin County Pre-Release Program. Additionally, the Court holds that the escape statute's probation and parole exception does not apply to North merely because the Franklin County Adult Probation Department oversees the Franklin County Pre-Release Program. Accordingly, the Commonwealth has properly charged North with escape after he allegedly walked-off that program on August 2, 2006. Thus, the Court denies the defendant's Motion to Dismiss.

ORDER OF COURT

August 31, 2007 this matter having come before the Court on Defendant's Omnibus Motion to Dismiss, and the Court having reviewed the record, the motion, the Commonwealth's and the Defendant's briefs, and the law, and after holding a hearing on the motion, it is hereby ordered that Defendant's request for relief contained in the Omnibus Motion to Dismiss is denied.

[1] "Official detention" is defined as "arrest, detention in any facility for custody of persons under charge or conviction of crime or alleged or found to be delinquent, detention for extradition or deportation, or any other detention for law enforcement purposes." 18 Pa.C.S.A. §5121(e).