COURT OF APPEALS OF VIRGINIA

Record No. 1503-25-4

CURTIS LEE HAYNES
v.
COMMONWEALTH OF VIRGINIA

Present: Chief Judge Decker, Judges AtLee and Callins
Argued at Fredericksburg, Virginia

Opinion Issued September 29, 2026*

FROM THE CIRCUIT COURT OF CULPEPER COUNTY
Dale B. Durrer, Judge

Hannon E. Wright (Rakness & Wright, PLC, on briefs), for appellant.

Dennis J. McLoughlin, Jr., Senior Assistant Attorney General (Jason S. Miyares,[1] Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE DOMINIQUE A. CALLINS

Curtis Lee Haynes appeals the portion of his probation revocation sentence imposing a five-year good behavior condition and two years of supervised probation. He contends the circuit court's authority to impose additional behavior conditions was limited by statute. For the following reasons, we affirm in part, reverse in part, and remand to the circuit court for further sentencing proceedings.

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

BACKGROUND[2]

In September 2018, Haynes pleaded guilty to felony possession of a controlled substance in violation of Code § 18.2-250. The circuit court sentenced him to five years' incarceration and suspended all but three months, conditioned on five years of good behavior and two years of supervised probation. Haynes first violated his probation in 2022. The circuit court revoked his suspended sentence, resuspended all but four months of the sentence, and imposed five years of good behavior and two years of supervised probation. Haynes violated his probation again in 2023. The court revoked his suspended sentence, resuspended all but 14 days of the remaining sentence, and again imposed five years of good behavior and two years of supervised probation.

By July 2025, the circuit court found Haynes to have violated probation a third time. At the revocation hearing, the court revoked his suspended sentence, resuspended all but one year and two months of his sentence, and conditioned the suspension on five years of good behavior and two years of supervised probation. After the court pronounced the sentence, Haynes's counsel asserted:

> I believe the Court's going to be limited in terms of what it can impose in terms of more supervised probation and good behavior period, given the conviction is from September of 2018. I think the Court's going to be limited by 19.2-306 in terms of good behavior, and then also the supervised probation.

Although acknowledging Haynes's objection as "preserved for appellate review," the circuit court rejected it. Relying upon its prior decision in a different case, the court reasoned that Haynes's revocation proceeding was "a new sentencing event and a new conviction, so [good

[2] "On appeal, 'we will view the evidence received at the revocation hearing in the light most favorable to the Commonwealth, as the prevailing party, including all reasonable and legitimate inferences that may properly be drawn from it.'" *Hamilton v. Commonwealth*, 79 Va. App. 699, 702 (2024) (quoting *Henderson v. Commonwealth*, 285 Va. 318, 329 (2013)).

behavior and probation conditions] would start all over again."[3] The court also expressly noted Haynes's objection in its sentencing order. This appeal follows.[4]

ANALYSIS

Haynes contends that the circuit court erred in imposing additional periods of good behavior and supervised probation as conditions of his suspended sentence because Code §§ 19.2-303, -303.1, and -306, as amended in 2021, limit the period of probation a court can impose. The Commonwealth argues that Haynes's argument is defaulted under Rule 5A:18 because Haynes failed to object with specificity to the circuit court's ruling. Yet, the Commonwealth acknowledges that, notwithstanding Haynes's procedural default, the circuit court erred.

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[3] In making its ruling, the circuit court referred to its decision in *Commonwealth v. Penn*, 114 Va. Cir. 343 (Culpeper Cnty. 2024), where it held that, under Code § 19.2-306(C), a court could impose different conditions upon resuspension of a sentence because when a court resuspends a sentence, "its new terms and conditions constitute a 'new sentencing event.'" *Id.* at 347 (quoting *Reinke v. Commonwealth*, 51 Va. App. 357, 367 (2008)).

[4] Three weeks after oral argument, the Commonwealth moved to dismiss this appeal, arguing that Haynes has been wanted on a capias since March 25, 2026 for probation violations, and therefore, under the fugitive disentitlement doctrine, dismissal of his appeal is appropriate. We disagree.

> This Court may apply the fugitive disentitlement doctrine to dismiss an appeal when (1) the appellant is a fugitive, (2) there is a nexus between the current appeal and the appellant's status as a fugitive, and (3) dismissal is necessary to effectuate the policy concerns underlying the doctrine. Even assuming there is an outstanding capias for [Haynes], we exercise our discretion to not apply the doctrine here.

Delaune v. Commonwealth, 76 Va. App. 372, 377 n.2 (2023) (citing *Sasson v. Shenhar*, 276 Va. 611, 623 (2008)). Notwithstanding having filed a motion to dismiss, the Commonwealth did so over five months after the capias was issued and approximately one month after the appeal was argued before this Court. Moreover, the Commonwealth represents that the capias pertains to a *new* probation violation, separate and independent of the violation on appeal. As such, this new violation "lack[s] a sufficient nexus to this appeal." *Id.* We therefore deny the motion.

I. Preservation under Rule 5A:18

"No ruling of the [circuit] court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling." Rule 5A:18. The purpose of Rule 5A:18 is to place the parties on notice and give the circuit court an opportunity to rule intelligently on an issue, "thereby avoiding the necessity of mistrials and reversals." *Stokes v. Commonwealth*, 61 Va. App. 388, 397 (2013) (quoting *Gardner v. Commonwealth*, 3 Va. App. 418, 423 (1986)). "Although the party need not cite specific authority, such as a particular statute or constitutional provision, to the [circuit] court in order to rely on it on appeal, he must present the objection itself with sufficient particularity to permit the judge . . . to take necessary action." *Hicks v. Commonwealth*, 71 Va. App. 255, 266 (2019). "An abstract reference is not sufficient to preserve an issue," *Widdifield v. Commonwealth*, 43 Va. App. 559, 563 (2004) (en banc), but we do not insist upon "formal exceptions or objections 'if a [circuit] court is aware of a litigant's legal position and the litigant did not expressly waive such arguments,'" *Hannah v. Commonwealth*, 303 Va. 109, 125 (2024) (quoting *Brown v. Commonwealth*, 279 Va. 210, 217 (2010)).

Although the circuit court noted Haynes's objection, we review the record independently to determine whether an issue was properly preserved for appeal. *See Maxwell v. Commonwealth*, 287 Va. 258, 264 (2014) (recognizing interpretation of Rule 5A:18 as a question of law to be reviewed de novo). Here, we hold that Haynes sufficiently preserved his objection for consideration on appeal. At sentencing, Haynes's counsel clearly stated the basis for his objection to the sentence: "I believe the Court's going to be limited in terms of what it can impose . . . given the conviction is from September of 2018. I think the Court's going to be limited by 19.2-306 in terms of good behavior, and then also supervised probation." Moreover, the circuit court understood Haynes's argument. It not only noted his objection as "preserved for

appellate review," the circuit court judge relied on and explicitly incorporated the rationale of a prior opinion he authored addressing a substantially similar issue as that presented here. It is of no consequence that Haynes, in objecting to the court's imposition of additional good behavior and probation conditions, did not cite to Code §§ 19.2-303 and -303.1; the circuit court had the opportunity to rule intelligently on the issue, and did so. *Stokes*, 61 Va. App. at 397.

Further, we find the Commonwealth's reliance on *Hannah* and *Widdifield* unpersuasive. Contrary to the Commonwealth's contention, Haynes presents to us, on the whole, the same argument he made before the circuit court. *Cf. Hannah*, 303 Va. at 125 (holding appellant's arguments that "a misdemeanor is not going to be the same as a felony" and "the probation period would have ended on the misdemeanor" insufficient to "notice of a potential defect under Code § 19.2-303.1"). Nor do we find the phrases "I believe" and "I think," as used by Haynes's counsel in the context of this record, to render his objection something short of that. *Cf. Widdifield*, 43 Va. App. at 562-63 (holding counsel's question, "Does she receive credit for the 12 months she pulled as well?" to be "an inquiry or question" that did not "expressly indicate the action that appellant wanted the [circuit] court to take"). Haynes asserted with sufficient particularity his objection to the circuit court's imposition of "more supervised probation and good behavior period, given the conviction is from September of 2018" and that the court was "limited" in its ability to impose such additional time. The circuit court understood the objection so clearly that it relied on a specific prior decision and "incorporate[d] [it] fully." Thus, the purpose of Rule 5A:18 was fulfilled. And accordingly, Haynes satisfied his preservation obligation under the rule.

II. Good Behavior and Supervised Probation

Turning to the merits of the case, Haynes argues that under Code §§ 19.2-303.1 and -306, the maximum period of suspension is five years from his original conviction in 2018. He further

argues that, because the circuit court previously imposed a total of four years of supervised probation on Haynes's prior violations, the imposition of an additional two years of supervised probation in 2025 exceeds the five-year cap proscribed by Code § 19.2-303. The Commonwealth agrees.

Haynes's arguments implicate the circuit court's statutory authority to impose conditions when resuspending his sentence. This is a question of law we review de novo. *Hamilton v. Commonwealth*, 79 Va. App. 699, 705 (2024). Our primary objective in interpreting a statute is to ascertain and effectuate the legislative intent as expressed by the language of the statute. *Diaz-Urrutia v. Commonwealth*, 77 Va. App. 182, 190 (2023) (quoting *Cuccinelli v. Rector & Visitors of the Univ. of Va.*, 283 Va. 420, 425 (2012)). We are bound by the plain meaning of the words of the statute unless they are ambiguous. *Taylor v. Commonwealth*, 298 Va. 336, 341 (2020). "[T]he probation statutes are highly remedial and should be liberally construed to provide [circuit] courts a valuable tool for rehabilitation of criminals." *Diaz-Urrutia*, 77 Va. App. at 190-91.

Code § 19.2-303.1 governs the circuit courts' authority to impose periods of probation and resuspension at both the initial sentencing and subsequent revocation proceedings. It establishes "a statutory maximum suspension period for suspended sentences." *Johnson-Bey v. Commonwealth*, 303 Va. 386, 392 (2024); *Barrow v. Commonwealth*, 81 Va. App. 535, 545 n.4 (2024). The statute, as amended, states that "[i]n any case where a court suspends the imposition or execution of a sentence, it may fix the period of suspension for up to the statutory maximum period for which the defendant might *originally* have been sentenced to be imprisoned." Code § 19.2-303.1 (emphasis added).

Code § 19.2-306, on the other hand, specifically governs the circuit courts' authority in revocation proceedings to resuspend sentences. *Johnson-Bey*, 303 Va. at 392; *Barrow*, 81

Va. App. at 545 n.4. The statute limits the court's ability to resuspend an individual's sentence to "a period up to the statutory maximum for which the defendant might *originally* have been sentenced to be imprisoned, less any time already served, and may place the defendant upon terms and conditions or probation." *Barrow*, 81 Va. App. at 547 (emphasis added) (quoting Code § 19.2-306(C)). It also requires the court to "measure the period of any suspension of sentence from the date of the entry of the original sentencing order." *Id.* (quoting Code § 19.2-306(C)). "[O]nce that period of suspension expires the defendant is no longer subject to having the suspension revoked." *Hamilton*, 79 Va. App. at 710 (quoting *Carbaugh v. Commonwealth*, 19 Va. App. 119, 126 (1994)).

Both Code §§ 19.2-303.1 and -306 expressly limit a circuit court's authority to suspend a sentence to the *statutory maximum period* "for which the defendant might originally have been sentenced to be imprisoned." We have previously interpreted this language to refer to the cumulative total for the *potential* maximum sentence of the defendant's original conviction under the applicable statute. *Hamilton*, 79 Va. App. at 708; *see also Barrow*, 81 Va. App. at 549 (recognizing *Hamilton*'s holding "that the cumulative total of all potential maximum sentences, running consecutively, was the proper standard").

In 2018, the circuit court convicted Haynes of felony possession of a controlled substance in violation of Code § 18.2-250. This offense carries a maximum potential sentence of ten years.[5] Since the date of Haynes's original sentence is 2018, any prospective period of

[5] Under Code § 18.2-250 felony possession of a Schedule I or II controlled substance is a Class 5 felony. It carries a maximum sentence of 10 years imprisonment. Code § 18.2-10.

suspension would end in September 2028.[6] Because the five-year good behavior condition imposed by the court order would end in 2030, the circuit court erred in imposing this condition. Thus we remand this matter for the circuit court to reconsider the imposition of a good behavior period.

As for Haynes's argument that the circuit court's imposition of two years of supervised probation exceeds that allowable under Code § 19.2-303, it is without merit.

Code § 19.2-303 states that "[a]fter conviction, . . . the court may suspend imposition of sentence in whole or in part and in addition may place the defendant on probation under such conditions as the court shall determine." In doing so, however, "[a]ny period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration." *Id.* As we have previously recognized, Code § 19.2-303 is only applicable to initial sentencing events, not to probation revocations. *Rogers v. Commonwealth*, 29 Va. App. 580, 588 (1999) ("Code § 19.2-303 pertains to initial sentencing decisions following conviction, not to probation revocation procedures."); *see also Barrow*, 81 Va. App. at 545 n.4 (same).

The proceeding from which this appeal arises was a revocation hearing, not an initial sentencing. Thus, Code § 19.2-303 is inapplicable.

CONCLUSION

Accordingly, we affirm in part, and reverse and remand in part the circuit court's judgment.

Affirmed in part, and reversed and remanded in part.

[6] Haynes argues that the court could not suspend his sentence beyond 2023 because his original conviction occurred in 2018. The Commonwealth agrees. However, both parties are wrong. *See Hamilton*, 79 Va. App. at 708 (noting that "[u]nlike the suspended sentence itself, the *period* of suspension is not affected by the amount of time that a defendant actively serves"); *Barrow*, 81 Va. App. at 551-52 (finding reversible error where the circuit court order purported to place defendant on supervised probation two years after his period of probation ran).