

COA Opinion: Trial Courts May Impose Consecutive Sentencing For Multiple Counts Of First-Degree Criminal Sexual Conduct That Arise Out Of The Same Continuous Sequence Of Events

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If two first-degree criminal sexual conduct (“CSC 1”) convictions arise out of the same transaction, a trial court may impose consecutive sentences. So held the Court of Appeals in *People v Ryan*, where the defendant was convicted of nine counts of sexually assaulting his daughter, and sentenced to 25 to 50 years imprisonment on each of those counts. The trial court found that the sexual penetrations associated with count three and count nine arose out of the same transaction; as a result, consecutive sentencing was permissible under MCL 750.520b(3), which states that a “court may order a term of imprisonment imposed under this section [the CSC 1 statute] to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.” The court also affirmed the trial court’s finding that the defendant’s confession, given after being deprived of sleep and pain killers for two days, was not involuntary.

The defendant argued on appeal that, since the statute refers to any “other” criminal offense, the Legislature intended that provision only to encompass crimes other than the offense covered by the statute, i.e., non-CSC 1 crimes, and as a result he could not be consecutively sentenced for two CSC 1 convictions. The Court of Appeals disagreed. The court found the phrase “any other criminal offense” was only intended to make a distinction between individual counts, not between CSC 1 crimes and non-CSC 1 crimes. The court also found that the sexual penetrations associated with count three and count nine occurred in the same continuous time sequence; thus, they arose from the same transaction. Consecutive sentencing was therefore appropriate under MCL 750.520b(3).

The defendant also argued on appeal that the court erred in refusing to suppress his confession, since he had been deprived of sleep and his pain medication for two days. The Court of Appeals rejected this argument, finding that the trial court adequately reviewed the circumstances of his confession to ensure that the confession was voluntarily given. The defendant appeared pain-free and at ease during the interview, and there was no evidence to suggest that his will was overborne. As a result, the Court of Appeals found that reversal was unwarranted.