



COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE

HOOSIER BOYS STATE
TRINE UNIVERSITY

JAMES BELLAMY v. STATE OF INDIANA

CRIMINAL LAW QUESTION BEFORE THE COURT:

Did the trial court err in determining that James Bellamy acted in direct contempt of the trial court by arriving 54 minutes late for his scheduled bench trial after the trial court had previously warned Bellamy that he would be found in contempt if he again failed to arrive for court proceedings in a timely fashion?

ORAL ARGUMENT:
Wednesday, June 15, 2011
2:00 p.m.
20 minutes each side

APPEAL FROM:
Marion Superior Court,
The Honorable
Becky Pierson-Treacy, Judge

CASE SYNOPSIS

Facts and Procedural History

On August 9, 2010, the State charged James Bellamy with Class A misdemeanor trespass and Class C misdemeanor unauthorized possession of a license or permit. The trial court conducted an initial hearing, at the conclusion of which it scheduled a pre-trial hearing for August 11, 2010. Bellamy failed to timely appear at the August 11, 2010 pre-trial hearing. The trial court subsequently issued a

warrant for Bellamy's arrest. Bellamy was later located and brought before the trial court. The trial court released Bellamy on his own recognizance after it warned him that he would be found in contempt and taken into custody if he failed to timely appear for future scheduled court proceedings.

Bellamy timely appeared at a September 1, 2010 pre-trial hearing, at the conclusion of which the trial court scheduled his trial for November 8,

CASE SYNOPSIS

2010. On November 8, 2010, Bellamy again failed to timely appear before the trial court. Bellamy eventually appeared before the trial court fifty-four minutes after his trial was scheduled to begin. In light of Bellamy's failure to timely appear for trial, the trial court found that Bellamy was in direct contempt of the trial court's previous order and sentenced him to five days of incarceration in the Marion County Jail. The parties then proceeded to trial, during which the State sought and was granted permission to dismiss the Class A misdemeanor trespass charge. Following the conclusion of the evidence, the trial court found that Bellamy was not guilty of Class C misdemeanor unauthorized possession of a license or permit. Bellamy's challenge on appeal is strictly to the trial court's determination that he acted in direct contempt of the trial court's previous order.

Summary of Arguments

Bellamy appeals the trial court's determination that he acted in direct contempt of the trial court by arriving fifty-four minutes late for his scheduled bench trial after the trial court had previously warned Bellamy that he would be found in contempt if he again failed to arrive for court proceedings in a timely fashion. Specifically, Bellamy

contends that the trial court erred in finding him in direct contempt because, as a lay person, he could not be found in direct contempt merely for failing to timely appear at court proceedings. Bellamy alternatively claims that even if he could be found in direct contempt, the trial court's order is erroneous because he was not granted the opportunity to be heard to explain his tardiness.

TODAY'S PANEL OF JUDGES**THE HONORABLE JOHN G. BAKER (MONROE COUNTY),
PRESIDING****Judge of the Court of Appeals since June 1989**

John G. Baker served as Chief Judge of the Court of Appeals from March 1, 2007 to December 31, 2010. He currently serves as Presiding Judge of the court's First District. He is originally from Aurora in Dearborn County and lived in Monroe County for 35 years. Since June 1989, he has served as a Judge of the Court of Appeals of Indiana representing the First District and has authored more than 4,000 majority opinions. Prior to becoming an appellate court judge, he served as county court and superior court judge for 13½ years in Bloomington, disposing of more than 15,000 cases.

Judge Baker graduated from Culver Military Academy and received his A.B. degree from Indiana University in 1968 in History and his J.D. from the Indiana University School of Law - Bloomington in 1971. He received his LLM in Judicial Process from the University of Virginia in 1995. Before assuming the trial bench, he was a partner in the firm of Baker, Barnhart and Andrews in Bloomington and was a Captain in the U.S. Army Reserves.

Since 1980, Judge Baker has taught as an adjunct professor at Indiana University's School of Public and Environmental Affairs, and since 2004 at the School of Law in Indianapolis. In addition, Judge Baker has served on the faculties of the Indiana Judicial College, Indiana Continuing Legal Education

Forum, and the National Institute of Trial Advocacy.

His professional associations include the American, Indiana State, Monroe County, Boone County, and Indianapolis Bar Associations. For the latter, he served as Vice-President in 1995. He has been a member of the Indiana Judges Association's Board of Managers continually since 1979 and served as its President from January of 1987 through June of 1989.

Judge Baker has been active in community and civic affairs as well. In addition to his church, YMCA, and other similar organizations, Judge Baker has been active in Boy Scouts of America since his youth and was awarded the rank of Eagle Scout.

Judge Baker was retained on the Court by election in 1992 and 2002. He and his wife have five children and - so far - seven grandchildren.

TODAY'S PANEL OF JUDGES**THE HONORABLE MELISSA S. MAY (VANDERBURGH COUNTY)**
Judge of the Court of Appeals since April 1998

Melissa S. May was appointed to the Indiana Court of Appeals by Governor Frank O'Bannon in April of 1998. She was born in Elkhart, Indiana. She received a B.S. in criminal justice from Indiana University-South Bend and, in 1984, a J.D. from Indiana University School of Law-Indianapolis. She is also a graduate of the Graduate Program for Indiana Judges.

Prior to her appointment to the Court, Judge May practiced law for fourteen years in Evansville, Indiana, where she focused on insurance defense and personal injury litigation.

Judge May has been active in local, state, and national bar associations and bar foundations. She served the Indiana Bar Association on the Board of Managers from 1992-1994, as Chair of the Litigation Section from 1998-1999, as Counsel to the President from 2000-2001, as Chair of the Appellate Practice Section from 2007-2008, and as Secretary to the Board of Governors in 2008-2009. She is also a member of the Indianapolis Bar Association and the Evansville Bar Association. In addition, she was a member of the Board of Directors of the Indiana Continuing Legal Education Forum from 1994-1999 and has been a co-chair of ICLEF's Indiana Trial Advocacy College from 2001 to present. She is a fellow of the Indiana Bar Foundation, as well as for the American Bar Association, and she is a Master Fellow of the Indianapolis Bar Association.

From 1999 until December 2004, Judge May was a member of Indiana's Continuing Legal Education Commission, where she chaired the Specialization Committee. She is currently on an Advisory Panel to the Specialization Committee. In 2005, she was named to the Indiana Pro Bono Commission and in July 2008, she was named as Chair of that Commission. While chair, she worked with the fourteen pro bono districts to train lawyers and mediators on how to assist homeowners who are facing foreclosure. Judge May also serves on the Civil Instruction Committee, an Indiana Judicial Conference Committee, which has been working to translate all of the civil jury instructions into "plain English." She frequently speaks on legal topics to attorneys, other judges, schools, and other professional and community organizations.

In 2003, Judge May was named to the American Bar Association's Standing Committee on Attorney Specialization. She is now special counsel to that committee. In the spring of 2004, Judge May became adjunct faculty at Indiana University School of Law-Indianapolis, where she teaches a trial advocacy course. Also in the spring of 2004, she was awarded an Honorary Doctor of Civil Law from the University of Southern Indiana.

Judge May, who was retained on the Court of Appeals in 2000 and 2010, is married and lives with her husband in Morgan County.

TODAY'S PANEL OF JUDGES**THE HONORABLE CALE J. BRADFORD (MARION COUNTY)**
Judge of the Court of Appeals since August 2007

Cale J. Bradford was appointed to the Court of Appeals by Governor Mitch Daniels and took his seat on August 1, 2007.

Prior to his elevation to the Court of Appeals, Judge Bradford served for more than 10 years as Judge of the Marion Superior Court, seven years in the criminal division and three in the civil division. He was twice elected presiding judge by his colleagues.

During this tenure, Judge Bradford chaired the Marion County Criminal Justice Planning Council, a group of local elected and appointed officials who recommended ways to improve the county's response to criminal justice problems, including jail overcrowding, staffing, and budget issues. His efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county's Juvenile Detention Center.

Before joining the bench, Judge Bradford served in the Marion County Prosecutor's Office for two years, overseeing a staff of more than 100 attorneys. For five years, he was an Assistant United States Attorney for the Southern District of Indiana, prosecuting major felony drug trafficking cases. He engaged in the private practice of law from 1986 to 1991, and served as both a deputy prosecutor and public defender during his career.

A native of Indianapolis, Judge Bradford received a B.A. in labor relations

and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference. He is a Distinguished Fellow of the Indianapolis Bar Association and has taught ICLEF seminars on trial practice for more than 10 years. From 2005 to 2007, Judge Bradford hosted "Off the Bench with Judge Cale Bradford," a legal commentary program on Marion County's government access network. He also served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and electronic case management. Judge Bradford currently serves as an adjunct instructor in forensic science and the law at Indiana University Purdue University Indianapolis.

Judge Bradford is a former director of Indianapolis's John P. Craine House, a residential alternative to incarceration for women offenders with preschool-aged children. Judge Bradford regularly attends Castleton United Methodist Church. He and his wife, a full-day kindergarten teacher, have five children.

James Bellamy v. State of Indiana

ATTORNEYS FOR THE PARTIES

For Appellant, James Bellamy:

Joel Schumm
Appellate Public Defender
Indianapolis

Joel Schumm is a Clinical Professor of Law at the Indiana University School of Law in Indianapolis and litigates several appeals each year for the Marion County Public Defender Agency. Schumm graduated from law school in 1998 and spent the next three years working as a judicial clerk, first for Justice Theodore R. Boehm of the Indiana Supreme Court (1998-2000) and then Judge Paul D. Mathias of the Indiana Court of Appeals. He has taught at the law school since 2001, where he currently serves as Director of the Court Externship Program, supervises the Appellate Clinic, and teaches courses in juvenile justice and legal analysis, research, and communication.

Over the past decade Schumm has

For Appellee, State of Indiana:

George P. Sherman
Deputy Attorney General
Indianapolis

George Sherman received his Bachelor of Arts degree from Bob Jones University in Greenville, South Carolina in 1999 and his Doctor of Jurisprudence degree from Indiana University School of Law-Bloomington in 2002.

During law school, Mr. Sherman clerked at the Office of the Indiana Attorney General in the General Litigation and Appeals Divisions. Following his graduation from law school, he had a postdoctoral fellowship at the law school with Fred Aman, who was then Dean of IU School of Law-Bloomington.

Mr. Sherman was admitted to practice in Indiana and the U.S. District Courts for the Northern and Southern Districts of Indiana in 2002. In December of that year

represented more than 100 indigent litigants on appeal, including defendants in criminal cases, juveniles alleged delinquent, and persons involuntarily committed to mental facilities. He has presented oral arguments several times to both the Indiana Supreme Court and Court of Appeals. He is the author of the Appellate Practice Manual, which is used by public defenders throughout the state, and frequently speaks and writes on criminal, juvenile, and appellate issues.

In his leisure time Schumm has run several half and full marathons and enjoys traveling both in the United States and internationally.

