

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. David L. Ingram

No. 19-0016 (W. Va. Nov. 19, 2020) · No. 19-0016 · Decided November 19, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed David L. Ingram’s life-with-mercy recidivist sentence following convictions for delivery of cocaine and methamphetamine. The court held that the sentence was not unconstitutionally disproportionate under Article III, Section 5 of the West Virginia Constitution, applying the framework from *State v. Hoyle* and considering the violent or potentially violent nature of the offenses and prior robbery conviction. A separate concurrence would have upheld the sentence based on the plain language of the recidivist statute, while a dissent argued that the sentence was disproportionate.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Margaret L. Workman; Justice Evan H. Jenkins; Justice John A. Hutchison; Chief Justice Tim Armstead; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	November 19, 2020
DOCKET	19-0016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from a circuit court order sentencing him to life imprisonment with mercy under the former West Virginia recidivist statute after convictions for delivery of cocaine and delivery of methamphetamine.
STANDARD OF REVIEW	Sentencing orders are reviewed under a deferential abuse-of-discretion standard unless the order violates statutory or constitutional commands.
PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law and no prejudicial error; likely nonprecedential under West Virginia Rule of Appellate Procedure 21
PARTIES	David L. Ingram v. State of West Virginia

TOPICS

sentencing

criminal procedure

statutory interpretation

constitutional law

standard of review

PRACTICE AREAS

criminal law

criminal sentencing

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Ingram's life-with-mercy sentence under former West Virginia Code § 61-11-18(c) was unconstitutionally disproportionate under article III, section 5 of the West Virginia Constitution.
2. Whether the cocaine- and methamphetamine-delivery offenses constituted offenses involving violence, threatened violence, or substantial impact sufficient to support the recidivist life sentence under State v. Hoyle.
3. Whether the former version of the recidivist statute governed Ingram's sentence rather than the 2020 statutory amendments.

HOLDINGS

1. The life-with-mercy sentence was not an unconstitutionally disproportionate punishment under article III, section 5 of the West Virginia Constitution.
2. The former version of West Virginia Code § 61-11-18 applied because the 2020 amendments became effective after Ingram's sentencing and the parties agreed that the amended statute did not govern.
3. Sentencing orders are reviewed under a deferential abuse-of-discretion standard unless the order violates statutory or constitutional commands.

KEY QUOTATIONS

“For purposes of a life recidivist conviction under West Virginia Code § 61-11-18(c), two of the three felony convictions considered must have involved either (1) actual violence, (2) a threat of violence, or (3) substantial impact upon the victim such that harm results.” (8)

“If this threshold is not met, a life recidivist conviction is an unconstitutionally disproportionate punishment under Article III, Section 5 of the West Virginia Constitution.” (8)

“The primary analysis of these offenses is to determine if they involve actual or threatened violence to the person since crimes of this nature have traditionally carried the more serious penalties and therefore justify application of the recidivist statute.” (4)

FACTUAL BACKGROUND

A confidential informant working with law enforcement purchased 0.383 grams of cocaine from Ingram for \$50 in his home and later purchased 0.510 grams of methamphetamine for \$60 in his vehicle. The transactions were controlled buys, and the informant was equipped with recording devices. Ingram had prior felony convictions for non-aggravated robbery and attempted third-offense shoplifting. The circuit court also considered his extensive criminal history and apparent threats by family members to prevent the informant from testifying.

PROCEDURAL HISTORY

Ingram was indicted in the Circuit Court of Fayette County on two delivery charges and was convicted after a one-day jury trial. The State then filed a recidivist information alleging two prior felony convictions. A jury found that Ingram was the person previously convicted of non-aggravated robbery and attempted third-offense shoplifting. The circuit court imposed a life-with-mercy sentence on the cocaine-delivery count and a consecutive one-to-five-year sentence on the methamphetamine-delivery count. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Lucas, 201 W. Va. 271, 496 S.E.2d 221 (1997)
- State v. Booth, 224 W. Va. 307, 685 S.E.2d 701 (2009)
- State v. Kilmer, 240 W. Va. 185, 808 S.E.2d 867 (2017)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)
- State v. Vance, 164 W. Va. 216, 262 S.E.2d 423 (1980)
- State v. Cooper, 172 W. Va. 266, 304 S.E.2d 851 (1983)
- State v. Beck, 167 W. Va. 830, 286 S.E.2d 234 (1981)
- State ex rel. Appleby v. Recht, 213 W. Va. 503, 583 S.E.2d 800 (2002)
- State v. Lane, 241 W. Va. 532, 826 S.E.2d 657 (2019)
- State ex rel. Boso v. Hedrick, 181 W. Va. 701, 391 S.E.2d 614 (1990)
- State v. Norwood, 242 W. Va. 149, 832 S.E.2d 75 (2019)
- State v. Hoyle, 242 W. Va. 599, 836 S.E.2d 817 (2019)
- State v. Gaskins, No. 18-0575, 2020 WL 3469894 (W. Va. June 25, 2020)
- State v. Shingleton, 237 W. Va. 669, 790 S.E.2d 505 (2016)
- State v. Sites, 241 W. Va. 430, 825 S.E.2d 758 (2019)
- State v. Kennon, -- So. 3d --, 2020 WL 5405710 (La. Sept. 1, 2020)
- Weems v. United States, 217 U.S. 349 (1910)
- Commonwealth v. Carrillo, 131 N.E.3d 812 (Mass. 2019)