

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Paul C.

No. 19-0776 (W. Va. Nov. 5, 2020) · No. 19-0776 · Decided November 5, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Preston County Circuit Court’s denial of Paul C.’s motion to dismiss an indictment alleging felony sexual offenses involving two minors. The court held that the three-term rule under West Virginia Code § 62-3-21 was not violated because at least one of the relevant terms was excused by delays attributable to the defendant and proceedings necessitated by pretrial motions and continuances.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Hutchison
JURISDICTION	West Virginia
DECIDED	November 5, 2020
DOCKET	19-0776
DISPOSITION	affirmed
PROCEDURAL POSTURE	Paul C. appealed from the circuit court's order denying his motion to dismiss an indictment for alleged violation of West Virginia's three-term speedy-trial rule. After the court denied the motion, he entered an Alford/Kennedy plea while reserving the right to challenge his convictions on that ground.
STANDARD OF REVIEW	A motion to dismiss an indictment is generally reviewed de novo; when the circuit court conducts an evidentiary hearing, its factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	published
PARTIES	Paul C. v. State of West Virginia

TOPICS

[speedy trial](#)[criminal procedure](#)[appellate procedure](#)[statutory interpretation](#)[standard of review](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether three unexcused regular terms of the circuit court passed without trial in violation of West Virginia Code section 62-3-21 and the speedy-trial guarantee of Article III, section 14 of the West Virginia Constitution.
2. Whether the March 2018 term was excluded from the three-term calculation because the defendant's motions and related proceedings prevented the case from proceeding to trial.
3. What standard of review applies to the denial of a motion to dismiss an indictment.

HOLDINGS

1. The March 2018 term was an excused term because the defendant's anticipated motions and related proceedings prevented the scheduled trial from proceeding, and the defendant agreed to a continuance.
2. The three-term rule was not violated because three unexcused regular terms did not pass without a trial.
3. The denial of a motion to dismiss an indictment is reviewed de novo, with clear-error review applying to factual findings made after an evidentiary hearing.

KEY QUOTATIONS

““It is the three-term rule, W.Va. Code, 62-3-21, which constitutes the legislative pronouncement of our speedy trial standard under Article III, Section 14 of the West Virginia Constitution.”” (syllabus point 3)

““We do not think that the language used in the statute, ‘on motion of the accused,’ means that the accused party must make a formal motion in the court in which the indictment is pending in order to charge him with the delay in bringing him to trial.”” (at 15)

“Even if the June and October 2017 terms were unexcused, because the March 2018 term was excused, we conclude that three unexcused terms of court did not pass without a trial and petitioner’s right to be tried without unreasonable delay, pursuant to West Virginia Code §62-3-21, was not violated.” (at 16)

FACTUAL BACKGROUND

Paul C. was charged with felony sexual offenses involving two minor victims. The original indictment was returned during the March 2017 term of the Preston County Circuit Court, and the case was delayed by discovery and records litigation, proceedings concerning the victims' testimony by closed-circuit video, continuances, and additional pretrial motions. The State dismissed the original indictment without prejudice and later obtained a new indictment containing eighteen felony charges. The circuit court concluded that the three-term rule had not been violated because the March 2018 term was excused by proceedings and a continuance attributable to the defense.

PROCEDURAL HISTORY

Paul C. was initially indicted in March 2017 on felony sexual offenses. After several continuances, pretrial proceedings, and the State's dismissal without prejudice of the original indictment, he was recharged and

indicted in January 2019 on eighteen felony offenses. The circuit court denied his motion to dismiss under West Virginia Code section 62-3-21, and this Court previously refused his petition for a writ of prohibition. He then entered an Alford/Kennedy plea and appealed the denial of his motion to dismiss.

DISPOSITION

affirmed

CASES CITED

- State v. Grimes, 226 W. Va. 411, 701 S.E.2d 449 (2009)
- State v. Holden, 843 S.E.2d 527 (W. Va. 2020)
- State v. Foddrell, 171 W. Va. 54, 297 S.E.2d 829 (1982)
- Good v. Handlan, 176 W. Va. 145, 342 S.E.2d 111 (1986)
- State v. Carter, 204 W. Va. 491, 513 S.E.2d 718 (1998)
- State v. Damron, 213 W. Va. 8, 576 S.E.2d 253 (2002)
- State ex rel. Spadafore v. Fox, 155 W. Va. 674, 186 S.E.2d 833 (1972)
- State v. Fender, 165 W. Va. 440, 268 S.E.2d 120 (1980)
- State v. Roy, 194 W. Va. 276, 460 S.E.2d 277 (1995)
- State v. David K., 238 W. Va. 33, 792 S.E.2d 44 (2016)
- State v. Carrico, 189 W. Va. 40, 427 S.E.2d 474 (1993)
- State ex rel. Smith v. DeBerry, 146 W. Va. 534, 120 S.E.2d 504 (1961)
- State ex rel. Sutton v. Keadle, 176 W. Va. 138, 342 S.E.2d 103 (1985)
- State ex rel. Farley v. Kramer, 153 W. Va. 159, 169 S.E.2d 106 (1969), cert. denied, 396 U.S. 986 (1969)
- North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)
- Kennedy v. Frazier, 178 W. Va. 10, 357 S.E.2d 43 (1987)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)