

SUPREME COURT OF VIRGINIA

Smith v. Richmond Newspapers, Inc.

261 Va. 113 (2001) · No. Record No. 000337 · Decided January 12, 2001

SUMMARY

The Supreme Court of Virginia held that audio recordings of felony criminal trials are court records open to public inspection under Code § 17.1-208 when they are the only record of the trial. The Court further held that mandamus was an appropriate remedy to compel the circuit court clerk to permit members of the public to listen to the recordings. The clerk retained discretion to regulate the manner of inspection so that it would not interfere with office operations, but could not categorically deny access.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Lawrence L. Koontz, Jr.
JURISDICTION	Virginia
DECIDED	January 12, 2001
DOCKET	Record No. 000337
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court of Henrico County awarding a writ of mandamus.
STANDARD OF REVIEW	De novo (questions of statutory interpretation and mandamus propriety).
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Virginia.
PARTIES	Yvonne G. Smith v. Richmond Newspapers, Inc., et al.

TOPICS

- public records
- mandamus immigration
- statutory interpretation
- criminal procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- government records

QUESTIONS PRESENTED

1. Whether audio tape recordings of felony criminal trials are open to public inspection under Code § 17.1-208.
2. Whether mandamus is the proper remedy to compel the clerk to allow inspection of such recordings.

HOLDINGS

1. When an audio tape recording of a felony criminal trial is the only verbatim record of that trial, it is a 'record' of the circuit court as contemplated by Code § 17.1-208 and is open to public inspection.
2. Mandamus is proper because the clerk has a clear, non-discretionary, ministerial duty to allow inspection (listening) of the public records of the court, and the clerk's discretion is limited to managing the manner of inspection to avoid interference with office business, not to denying access entirely.
3. The phrase 'open to inspection' in the context of audio tapes means that one inspects such tapes by listening to them.

KEY QUOTATIONS

“In all felony cases, the court or judge trying the case shall by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court.”

“No person shall be permitted to use the clerk’s office for the purpose of making copies of records in such a manner, or to such extent, as will interfere with the business of the office or with its reasonable use by the general public.”

FACTUAL BACKGROUND

The Clerk of the Circuit Court of Henrico County maintained audio tape recordings of felony criminal trials made when a court reporter was absent. A reporter for Richmond Newspapers requested to listen to the tapes of a specific trial, but the Clerk denied the request. The newspaper petitioned for a writ of mandamus. The facts were stipulated.

PROCEDURAL HISTORY

The petitioners (Richmond Newspapers, Inc. and a reporter) sought a writ of mandamus to compel the Clerk of the Circuit Court of Henrico County to allow public inspection of audio tape recordings of felony trials. The circuit court granted the writ. The Clerk appealed.

DISPOSITION

affirmed

CASES CITED

- Shenandoah Publishing House v. Fanning, 235 Va. 253, 368 S.E.2d 253 (1988)
- Hertz v. Times-World Corp., 259 Va. 599, 528 S.E.2d 458 (2000)

- Early Used Cars, Inc. v. Province, 218 Va. 605, 239 S.E.2d 98 (1977)

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