

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Etta Marie Webster

No. 11-1619 (W. Va. Apr. 12, 2013) · No. No. 11-1619 · Decided April 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Etta Marie Webster’s Rule 35(a) motion to correct her sentence. The court held that clerical errors in the charging and plea documents did not alter the offense to which Webster pleaded guilty or make her one-to-fifteen-year sentence, with parole eligibility after three years, illegal.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	April 12, 2013
DOCKET	No. 11-1619
DISPOSITION	affirmed
PROCEDURAL POSTURE	Webster appealed the Circuit Court of Nicholas County's denial of her Rule 35(a) motion to correct her sentence.
STANDARD OF REVIEW	A Rule 35 motion is reviewed under a three-pronged standard: the ruling on the motion for abuse of discretion, underlying facts for clear error, and questions of law and statutory or rule interpretation de novo.
PRECEDENTIAL VALUE	Unpublished memorandum decision; nonprecedential
PARTIES	Etta Marie Webster v. State of West Virginia

TOPICS

- sentencing
- criminal procedure
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- sentencing
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether Webster's sentence was illegal because the charging, plea, and related documents cited the statutory provisions for delivery of a Schedule II controlled non-narcotic substance.
2. Whether the erroneous statutory citations constituted prejudicial errors requiring correction or modification of Webster's sentence under Rule 35(a).
3. What standard of review applies to a circuit court's ruling on a Rule 35(a) motion.

HOLDINGS

1. West Virginia Code §§ 60A-4-401(a)(ii) and 60A-4-406(b)(2), which govern delivery of a Schedule II controlled non-narcotic substance, did not apply because Webster pleaded guilty to delivering Oxycodone, a controlled narcotic substance. The applicable provisions were §§ 60A-4-401(a)(i) and 60A-4-406(a)(2), authorizing a sentence of one to fifteen years with parole eligibility after three years.
2. Clerical errors in the Information and plea-related documents did not justify correction or modification of Webster's sentence because she understood the penalty for the narcotics offense and was not misled to her prejudice.
3. Review of a circuit court's ruling on a Rule 35 motion applies abuse of discretion to the ruling itself, clear-error review to underlying factual findings, and de novo review to legal questions and interpretations of statutes and rules.

KEY QUOTATIONS

“Because petitioner understood the penalty for the offense to which she pled, she was not misled to her prejudice by the clerical errors contained in her various court documents.” (3)

“Therefore, the circuit court did not abuse its discretion in sentencing petitioner to one to fifteen years in prison with parole eligibility after three years.” (3)

FACTUAL BACKGROUND

Webster delivered Oxycodone, a Schedule II controlled narcotic substance, to a confidential informant within one thousand feet of a school. Although several criminal and plea documents incorrectly cited the statutory penalty provisions for delivery of a non-narcotic substance, Webster stipulated during her plea hearing that she understood the applicable penalty was one to fifteen years in prison with parole eligibility after three years. The circuit court later amended the plea order to identify the correct narcotics statutes and denied Webster's Rule 35(a) motion challenging the sentence.

PROCEDURAL HISTORY

Webster pleaded guilty to delivering Oxycodone, a Schedule II controlled narcotic substance, within one thousand feet of a school. She received a sentence of one to fifteen years in prison with parole eligibility after three years. After discovering that several charging and plea documents incorrectly cited the penalty provisions for delivery of a non-narcotic substance, she moved under Rule 35(a) to correct her sentence. The circuit court denied the motion, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Head, 198 W. Va. 298, 480 S.E.2d 507 (1996)

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