

SUPREME COURT OF VIRGINIA

Townes v. Commonwealth, 269 Va. 234

609 S.E.2d 1 (2005) · No. Record No. 040979 · Decided March 3, 2005

SUMMARY

The Supreme Court of Virginia held that the Sexually Violent Predators Act applies only to a prisoner who is actively serving a sentence for a statutorily defined sexually violent offense when identified for review. Because Lorenzo Townes had completed his sentence for the predicate sexually violent offense, the court reversed the commitment judgment and dismissed the Commonwealth's petition.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Lawrence L. Koontz, Jr.; All the Justices
JURISDICTION	Virginia
DECIDED	March 3, 2005
DOCKET	Record No. 040979
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Commonwealth petitioned the Circuit Court of Campbell County to civilly commit Townes as a sexually violent predator under Virginia's Sexually Violent Predators Act. After the trial court found Townes subject to the Act and ordered his commitment, Townes appealed.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Lorenzo Townes v. Commonwealth of Virginia

TOPICS

- statutory interpretation
- rule of lenity
- due process
- health law

PRACTICE AREAS

- civil commitment
- statutory interpretation
- constitutional law
- health law

QUESTIONS PRESENTED

1. Whether a prisoner who has completed his sentence for the predicate sexually violent offense but remains incarcerated for other offenses is subject to Virginia's Sexually Violent Predators Act.

HOLDINGS

1. Under Code §§ 37.1-70.4 and 37.1-70.5, a prisoner must be serving an active sentence for a statutorily defined sexually violent offense at the time the prisoner is identified as subject to the Sexually Violent Predators Act. Because Townes was incarcerated only for other offenses when the Director notified the Commitment Review Committee, he was not subject to the Act.

KEY QUOTATIONS

*“Accordingly, we are of opinion that, although civil in nature, a statutory scheme such as the SVPA that permits an involuntary commitment process to be initiated by the Commonwealth is subject to the rule of lenity normally applicable to criminal statutes and must therefore be strictly construed.” (*4)*

*“Accordingly, we hold that since Townes was no longer “incarcerated for a sexually violent offense” at the time of the Director's notice to the Commitment Review Committee in this case, the trial court erred in ruling that Townes was subject to the provisions of the SVPA as a sexually violent predator.” (*4)*

FACTUAL BACKGROUND

Townes was convicted of statutory rape in 1973, an offense defined as a predicate sexually violent offense under Virginia law, and completed the sentence for that offense on January 22, 1991. He remained incarcerated until 2002 for other, non-sexually-violent offenses and was scheduled for release in 2003. The Department of Corrections referred him for review under the Sexually Violent Predators Act, and the trial court ultimately found him to be a sexually violent predator requiring inpatient treatment. At the time of the referral, however, Townes was no longer serving a sentence for the 1973 sexually violent offense.

PROCEDURAL HISTORY

The Commonwealth filed a civil-commitment petition after the Department of Corrections referred Townes for review. The trial court found probable cause, denied Townes's motion to dismiss based on his having completed the sentence for the predicate sexually violent offense, and ultimately ordered his commitment. The Supreme Court of Virginia reversed and dismissed the petition.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The court reversed the trial court's judgment and dismissed the Commonwealth's petition. No further remand instructions were provided.

CASES CITED

- Commonwealth v. Allen, 269 Va. ___, ___ S.E.2d ___ (2005)
- McCloud v. Commonwealth, 269 Va. ___, ___ S.E.2d ___ (2005)
- Zinerman v. Burch, 494 U.S. 113, 131, 110 S. Ct. 975, 108 L. Ed. 2d 100 (1990)
- Addington v. Texas, 441 U.S. 418, 425, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979)
- Holsapple v. Commonwealth, 266 Va. 593, 599, 587 S.E.2d 561, 564-65 (2003), cert. denied, ___ U.S. ___, 125 S. Ct. 164, 160 L. Ed. 2d 39 (2004)
- Burlile v. Commonwealth, 261 Va. 501, 511, 544 S.E.2d 360, 365 (2001)