

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Anthony Raddish

Raddish · No. 12-0161 · Decided March 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Anthony Raddish’s convictions and thirty-six-year sentence for drug-delivery and conspiracy offenses. The court declined to consider three unpreserved assignments of error, upheld the refusal to give a missing-witness instruction, and found sufficient evidence to support the conspiracy conviction.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; 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	March 12, 2013
DOCKET	12-0161
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anthony Raddish appealed the Circuit Court of Marion County's sentencing order following his jury convictions on two counts of delivery of a controlled substance within one thousand feet of a school, one count of delivery of a controlled substance, and one count of conspiracy to commit a felony.
STANDARD OF REVIEW	Unpreserved assignments of error were not addressed. Refusal to give a requested jury instruction is reviewed for abuse of discretion; whether the jury was properly instructed is reviewed de novo. A trial court has broad discretion in formulating jury instructions, and the wording and specific extent of an instruction are reviewed for abuse of discretion. The evidence supporting a conviction is reviewed in the light most favorable to the prosecution, with deference to jury credibility determinations; a verdict is set aside only when the record contains no evidence from which the jury could find guilt beyond a reasonable doubt.

PRECEDENTIAL VALUE	Memorandum decision; the court found no substantial question of law and no prejudicial error.
PARTIES	Anthony Raddish v. State of West Virginia

TOPICS

criminal procedure preservation of error jury instructions evidence conspiracy

PRACTICE AREAS

criminal procedure appellate procedure evidence jury instructions conspiracy

QUESTIONS PRESENTED

1. Whether the Court should review claims concerning the lead investigator's presence during trial, juror comments during voir dire, and the proof concerning the number of pills when those issues were not raised below.
2. Whether the trial court abused its discretion by refusing to give a missing-witness jury instruction concerning a confidential informant.
3. Whether sufficient evidence supported Raddish's conviction for conspiracy to commit a felony.

HOLDINGS

1. The Court declined to address Raddish's claims concerning the lead investigator's presence, juror comments during voir dire, and the proof concerning the number of pills because he failed to raise those issues in the circuit court.
2. The trial court did not err in refusing to give Raddish's requested missing-witness instruction.
3. The evidence was sufficient to support Raddish's conspiracy conviction.

KEY QUOTATIONS

“To preserve an issue for appellate review, a party must articulate it with such sufficient distinctiveness to alert a circuit court to the nature of the claimed defect.” (at 1)

“A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden. An appellate court must review all the evidence, whether direct or circumstantial, in the light most favorable to the prosecution and must credit all inferences and credibility assessments that the jury might have drawn in favor of the prosecution.” (at 2)

FACTUAL BACKGROUND

A lead detective contacted Raddish to purchase cocaine. Raddish directed the detective to contact a co-conspirator and provided a telephone number, after which the detective purchased drugs. Raddish also sought a missing-witness instruction concerning a confidential informant, but the trial court found that he had not shown

the witness was within the State's control or unavailable to him. The jury convicted Raddish on all four charged counts.

PROCEDURAL HISTORY

Raddish was indicted on four felony counts and convicted by a jury on all counts. The Circuit Court of Marion County sentenced him to thirty-six years of confinement with credit for time served. He appealed the sentencing order, raising claims concerning the presence of the lead investigator during trial, juror comments during voir dire, the proof concerning the number of pills, refusal of a missing-witness instruction, and sufficiency of the evidence supporting the conspiracy conviction. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Cooper v. Caperton, 196 W.Va. 208, 216, 470 S.E.2d 162, 170 (1996)
- State v. Hinkle, 200 W.Va. 280, 489 S.E.2d 257 (1996)
- State v. Guthrie, 194 W.Va. 657, 461 S.E.2d 163 (1995)
- State v. Kendall, 219 W.Va. 686, 639 S.E.2d 778 (2006)
- State v. Broughton, 196 W.Va. 281, 470 S.E.2d 413 (1996)