

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Carl T. Sr. v. David Ballard, Warden

Carl T. Sr. · No. No. 15-0649 · Decided June 3, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Carl T. Sr.’s petition for a writ of habeas corpus. The court rejected his arguments concerning ineffective assistance of counsel, involuntary guilty pleas, disproportionality of his sentence, and the sufficiency of the indictment, adopting the circuit court’s findings on the remaining issues.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 3, 2016
DOCKET	No. 15-0649
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Jackson County's denial of his petition for a writ of habeas corpus.
STANDARD OF REVIEW	In a habeas appeal, the final order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo. The sufficiency of an indictment is reviewed de novo.
PRECEDENTIAL VALUE	Unpublished memorandum decision; the court stated that it was appropriate under Rule 21 and found no substantial question of law or prejudicial error.
PARTIES	Carl T. Sr. v. David Ballard, Warden, Mount Olive Correctional Complex

TOPICS

- state post-conviction relief
- habeas corpus
- double jeopardy
- sentencing
- appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the circuit court properly denied habeas relief on petitioner's claim that his aggregate sentence was unconstitutionally disproportionate.
2. Whether the indictment was constitutionally and legally sufficient, including whether it provided adequate protection against a subsequent prosecution barred by double jeopardy.
3. What standards govern appellate review of a circuit court's habeas decision.

HOLDINGS

1. A habeas appeal is reviewed under a three-prong standard: abuse of discretion for the final order and ultimate disposition, clear error for underlying factual findings, and de novo review for questions of law.
2. The circuit court properly refused to consider petitioner's disproportionality argument because the sentence involved neither a life-rec recidivist sentence nor a statute without a fixed maximum, the circumstances to which West Virginia's constitutional proportionality standards are basically applicable.
3. The indictment was sufficient because its identification of the victims and the approximate time and place of the offenses permitted petitioner to invoke the double-jeopardy bar against a subsequent prosecution.

KEY QUOTATIONS

"In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review." (at 2)

"We conclude that the indictment in this case would allow petitioner to invoke the double jeopardy bar and that the circuit court did not err in finding that the indictment was sufficient." (at 3)

FACTUAL BACKGROUND

Petitioner was indicted on thirteen sexual-offense counts involving three minors and entered a best-interest plea to six counts under a binding plea agreement; the State dismissed the remaining counts. The circuit court sentenced him to an aggregate term of twenty-five to fifty-five years. In his later habeas proceeding, he challenged his counsel's effectiveness, the voluntariness of his pleas, the proportionality of his sentence, and the sufficiency of the indictment.

PROCEDURAL HISTORY

Petitioner pleaded guilty pursuant to a binding plea agreement to six counts, and the circuit court imposed an aggregate sentence of twenty-five to fifty-five years. He did not directly appeal his convictions or sentence. He later filed a habeas petition alleging ineffective assistance, involuntary pleas, a disproportionate sentence, and an insufficient indictment. After an omnibus habeas hearing and entry of a comprehensive order denying relief, he appealed to the Supreme Court of Appeals of West Virginia.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- Kennedy v. Frazier, 178 W. Va. 10, 357 S.E.2d 43 (1987)
- State v. Shrader, 234 W. Va. 381, 765 S.E.2d 270 (2014)
- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- State v. Goodnight, 169 W. Va. 366, 287 S.E.2d 504 (1982)
- State v. David D.W., 214 W. Va. 167, 588 S.E.2d 156 (2003)
- State v. Richardson, 214 W. Va. 410, 589 S.E.2d 552 (2003)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)
- State v. Slater, 222 W. Va. 499, 665 S.E.2d 674 (2008)
- Walker v. Doe, 210 W. Va. 490, 558 S.E.2d 290 (2001)
- State ex rel. State v. Reed, 204 W. Va. 520, 514 S.E.2d 171 (1999)
- State v. Sears, 196 W. Va. 71, 468 S.E.2d 324 (1996)
- State v. McKinley, 234 W. Va. 143, 764 S.E.2d 303 (2014)
- State v. Miller, 197 W. Va. 588, 476 S.E.2d 535 (1996)