

SUPREME COURT OF VIRGINIA

Jones v. Commonwealth

687 S.E.2d 738 (Va. 2010) · No. Record No. 090265 · Decided January 15, 2010

SUMMARY

The Supreme Court of Virginia affirmed convictions for statutory burglary while armed with a deadly weapon, conspiracy to commit burglary, and wearing body armor while committing a crime. The court held that the evidence supported findings of intent, conspiracy, and use of qualifying body armor, and that consent to enter did not preclude statutory burglary where the defendant entered with intent to commit assault and battery.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Senior Justice Elizabeth B. Lacy; Chief Justice Hassell; Justice Koontz; Justice Kinser; Justice Lemons; Justice Goodwyn; Justice Millette; Senior Justice Lacy
JURISDICTION	Virginia
DECIDED	January 15, 2010
DOCKET	Record No. 090265
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jones appealed to the Supreme Court of Virginia from a judgment of the Court of Appeals of Virginia affirming his convictions in the Circuit Court of the City of Hampton for statutory burglary while armed with a deadly weapon, conspiracy to commit burglary, and wearing body armor while committing a crime.
STANDARD OF REVIEW	On a sufficiency-of-the-evidence challenge, the evidence and all reasonable inferences are viewed in the light most favorable to the prevailing party below, and the conviction is affirmed if the record contains sufficient evidence to support it.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Aubrey Dwight Jones, Jr. v. Commonwealth of Virginia

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to prove that Jones entered the apartment with the intent to commit assault and battery, an element of statutory burglary.
2. Whether an occupant's apparent permission for Jones to enter the apartment precluded a statutory-burglary conviction.
3. Whether the evidence was sufficient to prove an agreement between Jones and Callahan to commit a felony, supporting the conspiracy conviction.
4. Whether the evidence was sufficient to prove that Jones committed a crime of violence while wearing body armor and that the vest qualified as body armor under Code § 18.2-287.2.

HOLDINGS

1. The evidence was sufficient to establish that Jones intended to commit assault and battery when he entered Outlaw's apartment, including his armed and armored entry, immediate confrontation of Outlaw, attempt to open the bedroom door, and kicking in the door.
2. An occupant's permission or authorization to enter does not preclude a statutory-burglary conviction when the entrant enters with the previously formed intent to commit a felony.
3. The evidence was sufficient to prove that Jones agreed with Callahan and Parker to commit a felony before entering the apartment.
4. The evidence was sufficient to establish that Jones wore body armor while committing a crime of violence and that the bulletproof vest qualified as body armor under Code § 18.2-287.2.

KEY QUOTATIONS

“For the reasons stated below, we conclude that there is sufficient evidence in this record to support the convictions and therefore will affirm the judgment of the Court of Appeals.” (739)

“Thus, permission or authorization to enter may be negated by the invitee's or guest's intent for purposes of establishing burglary or statutory burglary.” (741)

“The finder of fact was entitled to rely on this uncontested and uncontradicted testimony in determining whether Jones violated Code § 18.2-287.2.” (742)

FACTUAL BACKGROUND

After an argument with Jermaine Outlaw, Catherine Callahan contacted Jones and asked him to accompany her to Outlaw's apartment. Jones and Sheldon Parker entered the apartment at night after Callahan was admitted; Jones was armed with a firearm and wearing body armor, while Parker carried an asp. Jones and Parker went to

Outlaw's bedroom, attempted to force him out, and Jones kicked in the locked bedroom door; police later recovered a handgun, body armor, brass knuckles, and gloves. Jones told police that he had gone to seek an apology and carried the gun and wore body armor because he worked as a security officer.

PROCEDURAL HISTORY

The Circuit Court of the City of Hampton convicted Jones of statutory burglary, conspiracy, and wearing body armor during the commission of a crime. The Court of Appeals of Virginia affirmed those convictions. The Supreme Court of Virginia granted review and affirmed the judgment of the Court of Appeals, holding that the evidence was sufficient on each challenged offense.

DISPOSITION

affirmed

CASES CITED

- Viney v. Commonwealth, 269 Va. 296, 299, 609 S.E.2d 26, 28 (2005)
- Vincent v. Commonwealth, 276 Va. 648, 652-53, 668 S.E.2d 137, 140 (2008)
- Shackleford v. Commonwealth, 262 Va. 196, 209, 547 S.E.2d 899, 907 (2001)
- Davis v. Commonwealth, 132 Va. 521, 523-24, 110 S.E. 356, 357 (1922)
- Finney v. Commonwealth, 277 Va. 83, 88, 671 S.E.2d 169, 172 (2009)
- Gray v. Commonwealth, 260 Va. 675, 680, 537 S.E.2d 862, 865 (2000)
- Floyd v. Commonwealth, 219 Va. 575, 580-81, 249 S.E.2d 171, 174 (1978)
- Gray v. Rhoads, 268 Va. 81, 84-85, 597 S.E.2d 93, 95 (2004)

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