

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Robert Johnson

No. 11-1765 (McDowell County 08-F-118) (W. Va. Apr. 12, 2013) · No. No. 11-1765 · Decided April 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Robert Wayne Johnson Jr.'s conviction for first-degree murder and his sentence of life imprisonment with the possibility of parole. The court rejected or declined to reach claims involving ineffective assistance of counsel, diminished capacity, sufficiency of the evidence, denial of a mistrial, prosecutorial comments, pretrial publicity, and access to the trial transcript. The court concluded that no substantial question of law or prejudicial error was presented.

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. 11-1765
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction for first-degree murder and a sentence of life imprisonment with the possibility of parole.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by determining whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements proved beyond a reasonable doubt. A denial of a motion for mistrial is reviewed for abuse of discretion. A ruling on a motion for change of venue is reviewed for abuse of discretion. Claims of ineffective assistance of counsel generally are not resolved on direct appeal because they are more appropriately developed in habeas corpus proceedings. Prosecutorial comments warrant reversal only when they clearly prejudice the accused or result in manifest injustice.
PRECEDENTIAL VALUE	unpublished memorandum decision

PARTIES

Robert Johnson v. State of West Virginia

TOPICS

criminal procedure

appellate procedure

evidence

ineffective assistance

standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

evidence

QUESTIONS PRESENTED

1. Whether the court should address Johnson's ineffective-assistance-of-trial-counsel claims on direct appeal.
2. Whether the evidence was sufficient to prove the mental state and other essential elements of first-degree murder beyond a reasonable doubt.
3. Whether the circuit court abused its discretion by denying a mistrial after a key State witness sat in the courtroom during most of the State's opening statement.
4. Whether comments by the prosecutor during opening statement improperly prejudiced Johnson and required reversal.
5. Whether prejudicial pretrial publicity required a change of venue or denied Johnson a fair trial.
6. Whether Johnson was denied a trial transcript in violation of West Virginia Code section 51-7-7.

HOLDINGS

1. The court declined to adjudicate Johnson's ineffective-assistance claims on direct appeal because such claims are more appropriately developed in a petition for writ of habeas corpus.
2. Johnson could not establish a diminished-capacity defense without expert testimony that, at the time of the crime, a mental disease or defect rendered him incapable of forming the required mental state, and he presented no such expert testimony.
3. The evidence was sufficient for a rational juror to find the essential elements of first-degree murder beyond a reasonable doubt.
4. The circuit court did not abuse its discretion by denying Johnson's motion for a mistrial after Robert Parks remained in the courtroom during most of the State's opening statement.
5. The prosecutor's brief comments about the security of the home did not clearly prejudice Johnson or result in manifest injustice, so the circuit court properly overruled his objections.
6. Johnson did not establish good cause for a change of venue or demonstrate that pretrial publicity denied him a fair trial.
7. Johnson was not denied a trial transcript within the meaning of West Virginia Code section 51-7-7 because his counsel received a free transcript and Johnson identified no resulting prejudice.

KEY QUOTATIONS

“The function of an appellate court when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, is sufficient to convince a reasonable person of the defendant’s guilt beyond a reasonable doubt.” (2)

“A judgment of conviction will not be set aside because of improper remarks made by a prosecuting attorney to a jury which do not clearly prejudice the accused or result in manifest injustice.” (3)

FACTUAL BACKGROUND

Johnson and his father argued with their neighbor, Joseph Edward Mallory, about a gun on the day before Mallory was killed. Mallory was later found dead in his home with more than thirty stab wounds, and Johnson reportedly told his ex-wife that he may have killed a man by cutting his throat and stabbing him in the head. Johnson was arrested in North Carolina after driving there in his father's truck; the truck contained a blood smear and a bloody shirt containing Mallory's DNA. At trial, the jury convicted Johnson of first-degree murder but acquitted him of the burglary and petit-larceny charges.

PROCEDURAL HISTORY

A McDowell County jury convicted Robert Johnson of first-degree murder and recommended mercy, while acquitting him of nighttime burglary by breaking and entering, nighttime burglary by entering without breaking, and petit larceny. The circuit court imposed a life sentence with the possibility of parole. Johnson was resentenced on December 1, 2011, to permit him to pursue an appeal. The Supreme Court of Appeals of West Virginia affirmed in a memorandum decision.

DISPOSITION

affirmed

CASES CITED

- State v. Garrett, 195 W. Va. 630, 466 S.E.2d 481 (1995)
- State v. Triplett, 187 W. Va. 760, 421 S.E.2d 511 (1992)
- State v. Joseph, 214 W. Va. 525, 590 S.E.2d 718 (2003)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. Thornton, 228 W. Va. 449, 720 S.E.2d 572 (2011)
- State v. Sugg, 193 W. Va. 388, 456 S.E.2d 469 (1995)
- State v. Wooldridge, 129 W. Va. 448, 40 S.E.2d 899 (1946)
- State v. Sette, 161 W. Va. 384, 242 S.E.2d 464 (1978)
- State v. Derr, 192 W. Va. 165, 451 S.E.2d 731 (1994)
- State v. Satterfield, 193 W. Va. 503, 457 S.E.2d 440 (1995)
- State v. Dandy, 151 W. Va. 547, 153 S.E.2d 507 (1967)
- State v. Siers, 103 W. Va. 30, 136 S.E. 503 (1927)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/west-virginia-supreme-court-of-appeals-of-west-virginia/2013/state-of-west-virginia-v-robert-johnson-fiya5fg>