

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Ronald Goins

231 W. Va. 617 (2013) · No. No. 12-0256 · Decided September 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia held that multiple convictions and sentences for misdemeanor brandishing arising from a single incident violated double-jeopardy protections because the brandishing statute’s unit of prosecution is the breach of the peace, not the number of victims. The court affirmed that the evidence was sufficient to support one brandishing conviction, reversed the judgment insofar as it imposed five sentences, and remanded for resentencing.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Davis; Justice Workman; Justice Loughry
JURISDICTION	West Virginia
DECIDED	September 12, 2013
DOCKET	No. 12-0256
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Ronald Goins appealed his convictions and sentences from the Circuit Court of Mercer County. He challenged the sufficiency of the evidence supporting his brandishing conviction and argued that five sentences for brandishing arising from a single incident violated the Double Jeopardy Clauses of the federal and West Virginia constitutions.
STANDARD OF REVIEW	Double jeopardy claims and questions of law involving statutory interpretation are reviewed de novo. Sufficiency of the evidence is reviewed by viewing the evidence in the light most favorable to the prosecution and asking whether any rational trier of fact could have found the essential elements proved beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Ronald Goins v. State of West Virginia

TOPICS

- double jeopardy
- sentencing
- criminal procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

appellate law

statutory interpretation

sentencing

QUESTIONS PRESENTED

1. Whether imposing five sentences for brandishing under West Virginia Code § 61-7-11, based on the presence of multiple victims during a single incident, violated the federal and state constitutional prohibitions against multiple punishments for the same offense.
2. Whether the evidence was sufficient to support a conviction for brandishing under West Virginia Code § 61-7-11.

HOLDINGS

1. The unit of prosecution under West Virginia Code § 61-7-11 is the use, carrying, or brandishing of a deadly weapon in a manner that causes or threatens a breach of the peace, not the number of victims present or affected. A single incident of brandishing therefore may not be punished as multiple offenses merely because multiple victims are present.
2. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Goins violated West Virginia Code § 61-7-11. The conviction for a single count of brandishing was affirmed.

KEY QUOTATIONS

“The analysis of whether a criminal defendant may be separately convicted and punished for multiple violations of a single statutory provision turns upon the legislatively-intended unit of prosecution.” (at 618)

“The focus of the unit of prosecution under the brandishing statute, W. Va. Code § 61-7-11 (1994) (Repl. Vol. 2010), is not dependent upon the number of victims present when a deadly weapon is used to breach the peace.” (at 618)

“Therefore, a single incident of brandishing may not be punished as multiple offenses merely because there are two or more victims present or affected thereby.” (at 618)

“Nothing in the text of our brandishing statute suggests that it is violated based upon the number of shots fired from a weapon.” (at 624)

FACTUAL BACKGROUND

After an argument with his wife, Goins became intoxicated at the couple's home. His wife left with their children and arranged for her brother Joseph Tiller, who was accompanied by his wife and three children, to pick her up. Tiller's vehicle stopped approximately 150 yards from Goins's home, where Goins exited his van, aimed a pistol toward the vehicle, and fired several shots that landed within several feet of it. The Tillers testified that Goins appeared to see them and that the shooting terrified them.

PROCEDURAL HISTORY

A grand jury indicted Goins on domestic battery, domestic assault, and five counts of wanton endangerment. A jury acquitted him of the wanton-endangerment counts but convicted him of five lesser-included counts of

brandishing. The circuit court imposed five consecutive one-year sentences, initially suspended in favor of probation; after a probation violation, the court ordered one year of confinement followed by four years of probation. The Supreme Court of Appeals affirmed the sufficiency of the evidence, reversed the multiple sentences, and remanded for resentencing on a single brandishing count.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Circuit Court of Mercer County for resentencing on a single count of violating West Virginia Code § 61-7-11.

CASES CITED

- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. Gill, 187 W. Va. 136, 416 S.E.2d 253 (1992)
- Conner v. Griffith, 160 W. Va. 680, 238 S.E.2d 529 (1977)
- State v. Sears, 196 W. Va. 71, 468 S.E.2d 324 (1996)
- Chrystal R.M. v. Charlie A.L., 194 W. Va. 138, 459 S.E.2d 415 (1995)
- State v. Green, 207 W. Va. 530, 534 S.E.2d 395 (2000)
- State v. Epperly, 135 W. Va. 877, 65 S.E.2d 488 (1951)
- Harris v. State, 359 S.W.3d 625 (Tex. Crim. App. 2011)
- State v. Bell, 211 W. Va. 308, 565 S.E.2d 430 (2002)
- Kelsoe v. Commonwealth, 226 Va. 197, 308 S.E.2d 104 (1983)
- Tuggle v. State, 733 P.2d 610 (Wyo. 1987)
- State v. Myers, 229 W. Va. 238, 728 S.E.2d 122 (2012)
- State v. Kendall, 219 W. Va. 686, 639 S.E.2d 778 (2006)
- State v. Stone, 229 W. Va. 271, 728 S.E.2d 155 (2012)
- State v. Sears, 196 W. Va. 71, 468 S.E.2d 324 (1996)
- People v. Sotelo, 360 Ill. Dec. 194, 968 N.E.2d 687 (Ill. App. Ct. 2012)
- State v. Turner, 137 W. Va. 122, 70 S.E.2d 249 (1952)
- In re Peter F., 132 Cal. App. 4th 877, 34 Cal. Rptr. 3d 52 (2005)
- Napier v. Board of Education of County of Mingo, 214 W. Va. 548, 591 S.E.2d 106 (2003)
- Click v. Click, 98 W. Va. 419, 127 S.E. 194 (1925)
- State ex rel. Porter v. Recht, 211 W. Va. 396, 566 S.E.2d 283 (2002)
- Adkins v. Leverette, 161 W. Va. 14, 239 S.E.2d 496 (1977)
- Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180, 76 L. Ed. 306 (1932)
- State v. McGilton, 229 W. Va. 554, 729 S.E.2d 876 (2012)

- Marcuchi v. Norfolk & Western Railway Co., 81 W. Va. 548, 94 S.E. 979 (1918)
- State v. Long, 88 W. Va. 669, 108 S.E. 279 (1921)
- State v. Williams, 172 W. Va. 295, 305 S.E.2d 251 (1983)

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