

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Jennifer Marie Wallace

No. 18-1042 (W. Va. Oct. 11, 2019) · No. No. 18-1042 (Wood County 17-F-336) · Decided October 11, 2019

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Jennifer Marie Wallace’s seven-year sentence for second-degree arson. The court held that the sentence was within the statutory range, was not based on an impermissible factor, and was not constitutionally disproportionate. The court declined to address the alternative-sentencing claim because it was inadequately briefed.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Elizabeth D. Walker; Justice Margaret L. Workman; Justice Tim Armstead; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	October 11, 2019
DOCKET	No. 18-1042 (Wood County 17-F-336)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wallace appealed the Wood County Circuit Court's order sentencing her to seven years in prison after she pleaded guilty to second-degree arson.
STANDARD OF REVIEW	Sentencing orders are reviewed under a deferential abuse-of-discretion standard unless the order violates statutory or constitutional commands. A sentence within statutory limits and not based on an impermissible factor is generally not subject to appellate review.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Jennifer Marie Wallace v. State of West Virginia

TOPICS

[sentencing](#)[cruel and unusual punishment](#)[standard of review](#)[criminal procedure](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Wallace's seven-year sentence for second-degree arson was constitutionally disproportionate to the crime and therefore violated the prohibition against cruel and unusual punishment.
2. Whether the circuit court erred by denying Wallace's request for alternative sentencing.

HOLDINGS

1. The seven-year sentence was not constitutionally disproportionate. It fell within the statutory range of one to ten years, was not based on an impermissible factor, and was within the circuit court's sentencing discretion.
2. The court declined to address the alternative-sentencing claim on the merits because Wallace's brief did not cite legal authority supporting the claim and therefore inadequately preserved it.

KEY QUOTATIONS

“sentences imposed by the trial court, if within statutory limits and if not based on some [im]permissible factor, are not subject to appellate review.” (2)

“While our constitutional proportionality standards theoretically can apply to any criminal sentence, they are basically applicable to those sentences where there is either no fixed maximum set by statute or where there is a life recidivist sentence.” (2)

FACTUAL BACKGROUND

After arguing with her former boyfriend, his girlfriend, and another apartment resident, Wallace set fire to a gas can on the back deck of an apartment building connected to other apartments. Her former boyfriend injured his legs while attempting to extinguish the fire, and another tenant burned his hand while trying to locate the fire. Wallace made statements indicating that she intended to harm the girlfriend, did not care about other occupants, and might set another person's house on fire if angered again.

PROCEDURAL HISTORY

A Wood County grand jury indicted Wallace for first-degree arson and two counts of causing serious bodily injury during an arson-related crime. Pursuant to a plea agreement, she pleaded guilty to second-degree arson and the remaining counts were dismissed. The circuit court denied alternative sentencing and imposed a seven-year prison sentence. The Supreme Court of Appeals of West Virginia affirmed in a memorandum decision.

DISPOSITION

affirmed

CASES CITED

- State v. Lucas, 201 W. Va. 271, 496 S.E.2d 221 (1997)

- State v. Eilola, 226 W. Va. 698, 704 S.E.2d 698 (2010)
- State v. Goodnight, 169 W. Va. 366, 287 S.E.2d 504 (1982)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)
- Miranda v. Arizona, 384 U.S. 486 (1966)
- State, Dep't of Health v. Robert Morris N., 195 W. Va. 759, 466 S.E.2d 827 (1995)

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