

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Virgil Eugene Shrader

Shrader · No. No. 13-1266 · Decided November 25, 2014

SUMMARY

This document is a dissenting opinion in State of West Virginia v. Virgil Eugene Shrader concerning a plea agreement involving a nolo contendere plea to first-degree sexual abuse and deferred adjudication. The dissent criticizes the majority for enforcing what it characterizes as an unsound plea agreement and for ordering the defendant’s release and dismissal of the charges after finding that he satisfied the agreement’s conditions.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Benjamin, Justice
JURISDICTION	West Virginia
DECIDED	November 25, 2014
DOCKET	No. 13-1266
DISPOSITION	other
PROCEDURAL POSTURE	The case concerned a nolo contendere plea to one count of first-degree sexual abuse under a plea agreement that deferred adjudication and contemplated withdrawal of the plea and dismissal of the charges upon successful completion of court-ordered conditions. The dissent addresses the majority's decision to enforce the agreement, find that Shrader satisfied its conditions, release him from incarceration, and dismiss the charges.
PRECEDENTIAL VALUE	Separate dissenting opinion; no independent binding precedential value
PARTIES	State of West Virginia v. Virgil Eugene Shrader

TOPICS

- plea bargaining
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should enforce a plea agreement that lacked a procedural basis under West Virginia law.
2. Whether Shrader complied with the conditions of the plea agreement so as to warrant withdrawal of the plea, release from incarceration, and dismissal of the charges.

KEY QUOTATIONS

“Simply stated, it is poor policy to enforce unsound plea agreements.” (2)

“What incentive do prosecutors, trial courts, and defendants have to comply with the law regarding plea agreements if this Court will overlook major deficiencies contained therein and enforce such agreements?”
(2)

“I disagree with the majority’s decision to release Mr. Shrader and dismiss the charges against him.” (3)

FACTUAL BACKGROUND

Shrader pleaded nolo contendere to one count of first-degree sexual abuse, while the State dismissed the remaining six counts. The agreement contemplated deferred adjudication for five years and permitted withdrawal of the plea and dismissal of the charges if Shrader completed conditions imposed by the trial court, including sex-offender treatment. The dissent states that Shrader repeatedly denied committing inappropriate sexual acts but ultimately acknowledged responsibility for the charged crime. Justice Benjamin viewed the evidence as showing that Shrader posed a danger to the public, particularly children.

PROCEDURAL HISTORY

Shrader was indicted on multiple counts of first-degree sexual abuse. He entered a nolo contendere plea to one count in exchange for dismissal of the remaining counts and a five-year deferral of adjudication, subject to conditions including sex-offender treatment. The trial court entered into or approved the deferred-adjudication arrangement. The Supreme Court of Appeals, according to the dissent, concluded that the plea agreement lacked a procedural basis but nevertheless evaluated compliance, found the conditions satisfied, ordered Shrader released, and directed dismissal of the charges.

DISPOSITION

other

CASES CITED

- State v. George K., 233 W. Va. 698, 760 S.E.2d 512 (2014)
- State v. Goff, 203 W. Va. 516, 509 S.E.2d 557 (1998)

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