

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Jackie S.

No. 15-0985 (W. Va. Jan. 9, 2017) (memorandum decision) · No. No. 15-0985 · Decided January 9, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Preston County Circuit Court's sentence of ten to twenty years' imprisonment for sexual abuse by a parent. The court held that the petitioner knowingly, intelligently, and voluntarily entered an Alford plea after a thorough plea colloquy, despite his reported blood-sugar-related difficulty understanding the proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	January 9, 2017
DOCKET	No. 15-0985
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jackie S. appealed the Preston County Circuit Court's sentencing order following his Alford plea to one count of sexual abuse by a parent, arguing that the plea agreement was not knowingly, intelligently, and voluntarily entered.
STANDARD OF REVIEW	A direct appeal from a criminal conviction based on a guilty plea is permitted when the issue concerns the voluntariness of the plea or the legality of the sentence. Questions of law or statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum decision under West Virginia Rule of Appellate Procedure 21; no substantial question of law and no prejudicial error were found.
PARTIES	Jackie S. v. State of West Virginia

TOPICS

plea bargaining

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether petitioner knowingly, intelligently, and voluntarily entered his Alford plea and plea agreement despite reporting a medical issue that allegedly affected his comprehension.

HOLDINGS

1. A direct appeal from a criminal conviction based on a guilty plea lies when the appellant raises an issue concerning the voluntariness of the guilty plea or the legality of the sentence.
2. Petitioner's Alford plea was knowingly, intelligently, and voluntarily entered because the circuit court conducted a thorough plea colloquy satisfying the applicable requirements and the record did not show that petitioner's medical condition prevented understanding or voluntariness.

KEY QUOTATIONS

“An appeal ordinarily does not lie in a criminal case from a judgment of conviction rendered upon a plea of guilty.” (at 2)

“A direct appeal from a criminal conviction based on a guilty plea will lie where an issue is raised as to the voluntariness of the guilty plea or the legality of the sentence.” (at 2)

FACTUAL BACKGROUND

Petitioner was indicted on twelve counts of incest and eight counts of sexual abuse by a parent arising from sexual conduct involving his adopted daughter. He entered an Alford plea to one count of sexual abuse by a parent, and the State dismissed the other nineteen counts. During the plea hearing, petitioner stated that he was having some difficulty with his blood sugar and was initially slow to comprehend, but after eating cookies he understood the proceedings. He repeatedly confirmed that he understood the plea and was entering it voluntarily, and the circuit court conducted a thorough plea colloquy before imposing sentence.

PROCEDURAL HISTORY

A Preston County grand jury indicted petitioner on twelve counts of incest and eight counts of sexual abuse by a parent. In April 2015, petitioner entered an Alford plea to one count of sexual abuse by a parent in exchange for dismissal of the remaining nineteen counts. The circuit court sentenced him to ten to twenty years of imprisonment followed by twenty years of supervised release. The Supreme Court of Appeals of West Virginia affirmed the July 23, 2015, sentencing order.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)
- State v. Sims, 162 W. Va. 212, 248 S.E.2d 834 (1978)
- Chrystal R.M. v. Charlie A.L., 194 W. Va. 138, 459 S.E.2d 415 (1995)
- Call v. McKenzie, 159 W. Va. 191, 220 S.E.2d 665 (1975)
- Kennedy v. Frazier, 178 W. Va. 10, 357 S.E.2d 43 (1987)

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