

# SUPREME COURT OF APPEALS OF WEST VIRGINIA

## State of West Virginia v. Lamere S. Troup

State v. Troup · No. No. 19-0957 · Decided December 7, 2020

### SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Lamere S. Troup's convictions and sentences following guilty pleas to first-degree robbery and malicious assault. The court rejected his challenges that the sentences were unconstitutionally disproportionate to the offenses and disparate from those imposed on his female co-defendants. The court held that the sentence did not shock the conscience and that Troup was not similarly situated to those co-defendants.

### CASE DETAILS

|                       |                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                     |
| WRITING FOR THE COURT | Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison                                                      |
| JURISDICTION          | West Virginia                                                                                                                                                                                 |
| DECIDED               | December 7, 2020                                                                                                                                                                              |
| DOCKET                | No. 19-0957                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Defendant appealed the Circuit Court of Upshur County's sentencing order following guilty pleas to first-degree robbery and malicious assault.                                                |
| STANDARD OF REVIEW    | Sentencing orders are reviewed under a deferential abuse-of-discretion standard unless the order violates statutory or constitutional commands.                                               |
| PRECEDENTIAL VALUE    | Memorandum decision under West Virginia Rule of Appellate Procedure 21; the provided metadata identifies the opinion as published, but the opinion itself does not state a reporter citation. |
| PARTIES               | Lamere S. Troup v. State of West Virginia                                                                                                                                                     |

### TOPICS

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

## PRACTICE AREAS

criminal law

sentencing

criminal appellate procedure

constitutional criminal procedure

## QUESTIONS PRESENTED

1. Whether Troup's consecutive sentence of thirty-six years for first-degree robbery and two to ten years for malicious assault was unconstitutionally disproportionate to the offenses.
2. Whether Troup's sentence was unconstitutionally disproportionate to the sentences imposed on his codefendants.

## HOLDINGS

1. Troup's sentence did not shock the conscience and therefore was not unconstitutionally disproportionate under the subjective proportionality test.
2. Troup's sentence was not unconstitutionally disproportionate under the objective proportionality test.
3. Troup was not similarly situated to the female codefendants, and the disparity between their sentences did not render his sentence unconstitutional.
4. The circuit court did not abuse its discretion or commit prejudicial error in imposing the consecutive sentences.

## KEY QUOTATIONS

*"Disparate sentences for co-defendants are not per se unconstitutional. Courts consider many factors such as co-defendants' respective involvement in the criminal transaction (including who was the prime mover), prior records, rehabilitative potential (including post-arrest conduct, age and maturity), and lack of remorse."* (p. 3)

*"The first is subjective and asks whether the sentence for the particular crime shocks the conscience of the court and society."* (p. 4)

*"I mean, you got a guy that's probably lucky he's not dead from what was described happened in this case. I mean, he was - - he was bound, he was stabbed, he was beat, he had a gun pointed at [ ]his head, I mean, this is about as serious as it gets."* (p. 5)

## FACTUAL BACKGROUND

Troup participated in a planned, multistate robbery at a motel in West Virginia. The victim was bound with duct tape and zip ties, held at gunpoint, stabbed, pistol-whipped, kicked, and left with multiple lacerations, facial swelling, and a broken nose. Troup admitted pointing the gun, helping restrain the victim, preventing the victim's escape, and striking him with the gun. Troup also had a prior criminal history and admitted substance abuse, although he accepted responsibility and expressed remorse.

## PROCEDURAL HISTORY

Troup was indicted for kidnapping, first-degree robbery, conspiracy, and malicious assault. He pleaded guilty to first-degree robbery and malicious assault in exchange for dismissal of the remaining charges. The circuit court

sentenced him to thirty-six years for first-degree robbery and two to ten years for malicious assault, consecutively, and later denied his Rule 35(b) motion for reconsideration. Troup appealed, arguing that his sentence was unconstitutionally disproportionate both to the offense and to the sentences imposed on his codefendants.

## DISPOSITION

affirmed

## CASES CITED

- State v. Lucas, 201 W. Va. 271, 496 S.E.2d 221 (1997)
- State v. Georgius, 225 W. Va. 716, 696 S.E.2d 18 (2010)
- State v. Varlas, 844 S.E.2d 688 (W. Va. June 11, 2020)
- State v. Cooper, 172 W. Va. 266, 304 S.E.2d 851 (1983)
- State v. Buck, 173 W. Va. 243, 314 S.E.2d 406 (1984)
- State v. Mann, 205 W. Va. 303, 518 S.E.2d 60 (1999)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)
- Stockton v. Leeke, 269 S.C. 459, 237 S.E.2d 896 (1977)
- State v. Adams, 211 W. Va. 231, 565 S.E.2d 353 (2002)
- State v. Patrick C., 843 S.E.2d 510 (W. Va. Feb. 25, 2020)
- State v. Ross, 184 W. Va. 579, 402 S.E.2d 248 (1990)
- State v. Williams, 205 W. Va. 552, 519 S.E.2d 835 (1999)
- State v. Woods, 194 W. Va. 250, 460 S.E.2d 65 (1995)
- State ex rel. Faircloth v. Catlett, 165 W. Va. 179, 267 S.E.2d 736 (1980)