

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Christopher L. Palmer

No. 15-0858 (W. Va. Sept. 6, 2016) · No. No. 15-0858 · Decided September 6, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Christopher L. Palmer’s convictions and sentences for conspiracy to commit a felony and burglary. The court rejected challenges to the sufficiency of the evidence, admission of a photographic lineup, and the jury instructions. The decision was issued as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	September 6, 2016
DOCKET	No. 15-0858
DISPOSITION	affirmed
PROCEDURAL POSTURE	Palmer appealed his convictions and sentences from the Circuit Court of Fayette County, challenging the denial of his Rule 29 motion for acquittal, admission of a photographic lineup, and the jury instructions.
STANDARD OF REVIEW	Rulings concerning a new trial and the existence of reversible error are reviewed for abuse of discretion; underlying factual findings are reviewed for clear error; and questions of law are reviewed de novo. A judgment-of-acquittal ruling is reviewed de novo, viewing the evidence in the light most favorable to the verdict and asking whether a rational jury could find guilt beyond a reasonable doubt. An unobjected-to jury charge is reviewed under plain error and/or ineffective-assistance principles.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Christopher L. Palmer v. State of West Virginia

TOPICS

criminal procedure

evidence

appellate procedure

jury instructions

standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Palmer's convictions for conspiracy to commit a felony and burglary, such that the circuit court properly denied his Rule 29 motion for acquittal.
2. Whether the circuit court erred by admitting the photographic lineup despite alleged noncompliance with West Virginia Code § 62-1E-2(a) and § 62-1E-2(k)(2).
3. Whether the circuit court plainly erred by giving a burglary instruction that did not use the term 'feloniously' and by failing to include attempted burglary in the jury instructions.

HOLDINGS

1. The evidence was sufficient for a rational jury to find Palmer guilty of conspiracy to commit a felony and burglary beyond a reasonable doubt; therefore, the circuit court properly denied the Rule 29 motion for acquittal.
2. The circuit court did not err in admitting the photographic lineup because the procedure was not unduly suggestive and the statutory recording requirements did not require exclusion under the circumstances presented.
3. The circuit court did not commit reversible or plain error in giving the burglary instruction without the term 'feloniously' because Palmer knowingly and intelligently waived the proposed objection after reviewing the statutory language, and no objection was made to the charge.

KEY QUOTATIONS

"The trial court's disposition of a motion for judgment of acquittal is subject to our de novo review; therefore, this Court, like the trial court, must scrutinize the evidence in the light most compatible with the verdict, resolve all credibility disputes in the verdict's favor, and then reach a judgment about whether a rational jury could find guilt beyond a reasonable doubt." (at 3)

"A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden." (at 3)

"in West Virginia criminal cases[,] the sole bases for attacking an unobjected to jury charge are plain error and/or ineffective assistance of counsel." (at 5)

FACTUAL BACKGROUND

In April 2014, Betty Puckett saw a man enter her home after prying open the back door and confronted him from approximately six feet away. She later identified Palmer in a photographic lineup, and police recovered tools and damaged door-frame materials connected to the incident. At trial, Puckett identified Palmer as the intruder and

identified his codefendant's vehicle as the vehicle at her residence. Palmer denied entering the home but admitted riding in the vehicle with the codefendant.

PROCEDURAL HISTORY

Palmer was charged with conspiracy to commit a felony and burglary after a victim identified him through a photographic lineup. Following a jury trial, he was convicted of both offenses. The Circuit Court of Fayette County entered a sentencing order on August 5, 2015, imposing consecutive sentences, including an enhanced burglary sentence based on a prior felony conviction. The Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Vance, 207 W. Va. 640, 535 S.E.2d 484 (2000)
- State v. LaRock, 196 W. Va. 294, 470 S.E.2d 613 (1996)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. White, 231 W. Va. 270, 744 S.E.2d 668 (2013)
- State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995)