

## SUPREME COURT OF APPEALS OF WEST VIRGINIA

# Rajion Alterek Mayo v. Ralph Terry, Acting Warden

Mayo · No. 16-0559 · Decided May 18, 2018

### SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Rajion Alterek Mayo’s petition for a writ of habeas corpus. The court held that his twenty-year sentence for first-degree robbery was not unconstitutionally disproportionate to the offense or to the less severe sentence imposed on his juvenile codefendant. The court also rejected his double-jeopardy argument.

### CASE DETAILS

|                       |                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                        |
| WRITING FOR THE COURT | Chief Justice Margaret L. Workman; Justice Robin Jean Davis; Justice Menis E. Ketchum; Justice Allen H. Loughry II; Justice Elizabeth D. Walker                                  |
| JURISDICTION          | West Virginia                                                                                                                                                                    |
| DECIDED               | May 18, 2018                                                                                                                                                                     |
| DOCKET                | 16-0559                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Petitioner appealed the Cabell County Circuit Court's denial of his petition for a writ of habeas corpus challenging the constitutionality of his first-degree robbery sentence. |
| STANDARD OF REVIEW    | In a habeas appeal, the final order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.    |
| PRECEDENTIAL VALUE    | Published memorandum decision; the source states that it was issued under Rule 21, but does not specify a separate precedential designation.                                     |
| PARTIES               | Rajion Alterek Mayo v. Ralph Terry, Acting Warden, Mt. Olive Correctional Complex                                                                                                |

### TOPICS

state post-conviction relief   sentencing   cruel and unusual punishment   double jeopardy   appellate procedure

## PRACTICE AREAS

post-conviction relief

criminal procedure

sentencing

constitutional law

## QUESTIONS PRESENTED

1. Whether Mayo's twenty-year sentence for first-degree robbery was unconstitutionally disproportionate to the offense under Article III, Section 5 of the West Virginia Constitution.
2. Whether the sentence was unconstitutionally disproportionate to the lesser sentence imposed on Mayo's juvenile codefendant.
3. Whether imposing separate sentences for second-degree murder and first-degree robbery violated double-jeopardy principles.

## HOLDINGS

1. The twenty-year sentence for first-degree robbery was not unconstitutionally disproportionate because it did not shock the conscience and, considering the nature of the offense and Mayo's prior and subsequent criminal conduct, did not violate West Virginia's constitutional proportionality principle.
2. The disparity between Mayo's sentence and his codefendant's lesser sentence was not unconstitutional because the two defendants were not similarly situated.
3. Double-jeopardy principles were not implicated because Mayo received a separate sentence for each separate conviction.

## KEY QUOTATIONS

*"In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review."* (at 2)

*"The first is a subjective test and asks whether the sentence for a particular crime shocks the conscience of the Court and society."* (at 3)

*"Disparate sentences for codefendants are not per se unconstitutional."* (at 4)

## FACTUAL BACKGROUND

Mayo and a juvenile codefendant approached a couple in a public park, displayed what appeared to be a firearm, and robbed the man. Later, after Mayo's eighteenth birthday, he fired a weapon into a vehicle during an attempted robbery, killing an individual. Mayo ultimately pleaded guilty to second-degree murder and first-degree robbery and received consecutive sentences of thirty and twenty years. He challenged the robbery sentence as disproportionate to the offense and to the lesser sentence imposed on his juvenile codefendant.

## PROCEDURAL HISTORY

Mayo pleaded guilty to second-degree murder and first-degree robbery under a plea agreement and received consecutive sentences of thirty years and twenty years, respectively. After unsuccessful motions for sentence reduction, he filed a state habeas petition arguing that the robbery sentence was disproportionate to the offense

and to the lesser sentence imposed on his juvenile codefendant. The circuit court denied habeas relief, and the Supreme Court of Appeals affirmed in a memorandum decision.

## DISPOSITION

affirmed

## CASES CITED

- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Anstey v. Ballard, 237 W. Va. 411, 787 S.E.2d 864 (2016)
- State v. Mayo, No. 13-1003, 2014 WL 6634229 (W. Va. Nov. 24, 2014) (memorandum decision)
- State v. Ross, 184 W. Va. 579, 402 S.E.2d 248 (1990)
- State v. Martin, 177 W. Va. 758, 356 S.E.2d 629 (1987)
- State v. Glover, 177 W. Va. 650, 355 S.E.2d 631 (1987)
- State v. Buck, 173 W. Va. 243, 314 S.E.2d 406 (1984)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)

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