

SUPREME COURT OF VIRGINIA

Hudson v. Commonwealth, 267 Va. 29

590 S.E.2d 362 (2004) · No. Record No. 031461 · Decided January 16, 2004

SUMMARY

The Supreme Court of Virginia reviewed James Bryant Hudson’s death sentence despite his waiver of appellate review, as required by Virginia Code § 17.1-313. The court found no evidence that the sentence was imposed under passion, prejudice, or another arbitrary factor and concluded that it was neither excessive nor disproportionate compared with similar capital murder cases. The court affirmed the trial court’s judgment.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Virginia                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Elizabeth B. Lacy; Hassell, C.J.; Lacy, J.; Keenan, J.; Kinser, J.; Lemons, J.; Agee, J.; Carrico, S.J.                                                                                                                                                                                                                                    |
| JURISDICTION          | Virginia                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | January 16, 2004                                                                                                                                                                                                                                                                                                                           |
| DOCKET                | Record No. 031461                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Hudson pleaded guilty to capital murder, first-degree murder, and two firearm offenses pursuant to a plea agreement. The trial court imposed a death sentence for the capital murder conviction. Although Hudson waived his right to appeal, the Supreme Court of Virginia conducted the mandatory statutory review of the death sentence. |
| STANDARD OF REVIEW    | Mandatory statutory review of the death sentence under Code § 17.1-313(C), including review for passion, prejudice, or another arbitrary factor and review for excessiveness or disproportionality compared with sentences in similar cases.                                                                                               |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Virginia                                                                                                                                                                                                                                                                            |
| PARTIES               | James Bryant Hudson v. Commonwealth of Virginia                                                                                                                                                                                                                                                                                            |

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- standard of review

## PRACTICE AREAS

criminal law

capital punishment

appellate law

## QUESTIONS PRESENTED

1. Whether Hudson's death sentence was imposed under the influence of passion, prejudice, or another arbitrary factor.
2. Whether Hudson's death sentence was excessive or disproportionate to the penalties imposed in comparable capital-murder cases.

## HOLDINGS

1. A defendant may waive the right to appeal a death sentence, but cannot waive the Supreme Court of Virginia's mandatory review under Code § 17.1-313.
2. Hudson's death sentence was not imposed under the influence of passion, prejudice, or another arbitrary factor and was not excessive or disproportionate to sentences imposed in comparable capital-murder cases.

## KEY QUOTATIONS

*"A defendant cannot, however, waive a review of the death sentence pursuant to Code § 17.1-313(A) and (C) because "the purpose of the review process is to assure the fair and proper application of the death penalty statutes in this Commonwealth and to instill public confidence in the administration of justice.""* (364)

*"In conducting the proportionality review, we strive "to reach a reasoned judgment regarding what cases justify the imposition of the death penalty. Orbe v. Commonwealth, 258 Va. 390, 405, 519 S.E.2d 808, 817 (1999). We do not "insure complete symmetry.""* (365)

## FACTUAL BACKGROUND

Hudson shot and killed Stanley and Wesley Cole as they traveled in a truck near Hudson's home, firing a 12-gauge shotgun through the truck and later shooting Wesley as he attempted to flee. Hudson then drove to the Coles' home and shot and killed Wesley's wife, Patsy, who was working in a garden. Police later recovered the shotgun and determined that Hudson had used it with Number 00 Buck pellets. The trial court found the murders deliberate, execution-style killings and found the aggravating factors of vileness and future dangerousness.

## PROCEDURAL HISTORY

A grand jury indicted Hudson on multiple capital-murder, murder, and firearm charges. Under a plea agreement, he pleaded guilty to capital murder involving the deaths of Stanley and Wesley Cole, first-degree murder of Patsy Cole, and two firearm offenses; the Commonwealth nolle prossed the remaining charges. After a sentencing hearing at which Hudson declined to present mitigating evidence, the trial court imposed death, and later found that his waiver of appellate rights was knowing, voluntary, and intelligent. The Supreme Court of Virginia nevertheless reviewed the death sentence under Code § 17.1-313 and affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- Commonwealth v. Bower, 264 Va. 41, 563 S.E.2d 736 (2002)
- Akers v. Commonwealth, 260 Va. 358, 535 S.E.2d 674 (2000)
- Zirkle v. Commonwealth, 262 Va. 631, 553 S.E.2d 520 (2001)
- Goins v. Commonwealth, 251 Va. 442, 470 S.E.2d 114 (1996)
- Stewart v. Commonwealth, 245 Va. 222, 427 S.E.2d 394 (1993)
- Chichester v. Commonwealth, 248 Va. 311, 448 S.E.2d 638 (1994)
- Dubois v. Commonwealth, 246 Va. 260, 435 S.E.2d 636 (1993)
- Orbe v. Commonwealth, 258 Va. 390, 519 S.E.2d 808 (1999)
- Green v. Commonwealth, 266 Va. 81, 580 S.E.2d 834 (2003)

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