

SUPREME COURT OF VIRGINIA

Findlay v. Commonwealth, 287 Va. 111

752 S.E.2d 868 (2014) · No. Record No. 130409 · Decided January 10, 2014

SUMMARY

The Supreme Court of Virginia held that Richard Gordon Findlay’s assignment of error sufficiently complied with Rule 5A:12(c)(1) because it identified the trial court’s denial of his motion to suppress. The Court reversed the Court of Appeals’ dismissal of the petition for appeal and remanded for review on the merits.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice William C. Mims; Justice Powell; Justice McClanahan; All remaining justices
JURISDICTION	Virginia
DECIDED	January 10, 2014
DOCKET	Record No. 130409
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Findlay appealed the dismissal of his petition for appeal by the Court of Appeals of Virginia, which had ruled that his assignment of error did not comply with Rule 5A:12(c).
STANDARD OF REVIEW	Questions of law, including interpretation of the Rules of the Supreme Court of Virginia, are reviewed de novo.
PRECEDENTIAL VALUE	published and precedential decision of the Supreme Court of Virginia
PARTIES	Richard Gordon Findlay v. Commonwealth of Virginia

TOPICS

appellate procedure appellate jurisdiction criminal procedure suppression of evidence fourth amendment

PRACTICE AREAS

appellate procedure criminal procedure constitutional law

QUESTIONS PRESENTED

1. Whether Findlay's assignment of error, identifying the trial court's denial of his motion to suppress and citing the preservation page, was sufficiently specific under Rule 5A:12(c)(1).
2. Whether the Court of Appeals erred by dismissing Findlay's petition for appeal rather than addressing the merits of his suppression challenge.

HOLDINGS

1. An assignment of error that identifies a particular preliminary ruling of the trial court as erroneous is sufficiently detailed under Rule 5A:12(c)(1); it need not also state precisely why the ruling was erroneous or include a separate 'because' clause.
2. The Court of Appeals erred in dismissing Findlay's petition for appeal for failure to comply with Rule 5A:12(c), and the case must be remanded for review of the petition on the merits.

KEY QUOTATIONS

“Where, as here, the assignment of error identifies a particular preliminary ruling of the trial court, as opposed to broadly criticizing the trial court’s judgment as being contrary to the law, it is sufficiently detailed to warrant consideration on the merits.” (at 5)

“Accordingly, we hold that Findlay’s assignment of error is sufficiently detailed to satisfy the requirements of Rule 5A:12(c)(1).” (at 8)

FACTUAL BACKGROUND

Findlay was convicted of five counts of possession of child pornography under Code § 18.2-374.1:1. His appeal challenged the denial of his motion to suppress videos, a computer, a hard drive, and derivative evidence obtained through a scan, search, and seizure of his computer, asserting that any consent was not knowing and voluntary. His petition for appeal identified the trial court's denial of the suppression motion and cited the transcript page where the issue was preserved.

PROCEDURAL HISTORY

Findlay was convicted of five counts of possessing child pornography and appealed to the Court of Appeals of Virginia, challenging the trial court's denial of his motion to suppress evidence seized from his computer. The Court of Appeals, initially by a per curiam order and then through a three-judge panel, dismissed the petition for failure to comply with Rule 5A:12(c). The Supreme Court of Virginia reversed and remanded for review of the petition on the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals of Virginia was directed to review Findlay's petition for appeal on the merits.

CASES CITED

- Stevens v. Commonwealth, 283 Va. 296, 302, 720 S.E.2d 80, 82 (2012)
- LaCava v. Commonwealth, 283 Va. 465, 469-70, 722 S.E.2d 838, 840 (2012)
- Harlow v. Commonwealth, 195 Va. 269, 271-72, 77 S.E.2d 851, 853 (1953)
- Friedline v. Commonwealth, 265 Va. 273, 278, 576 S.E.2d 491, 494 (2003)
- Carroll v. Commonwealth, 280 Va. 641, 649, 701 S.E.2d 414, 418 (2010)
- First Nat'l Bank of Richmond v. William R. Trigg Co., 106 Va. 327, 341-42, 56 S.E. 158, 163 (1907)
- Loughran v. Kincheloe, 160 Va. 292, 298, 168 S.E. 362, 364 (1933)
- Amin v. County of Henrico, 286 Va. 231, 233, 236, 749 S.E.2d 169, 169, 171 (2013)
- Branham v. Commonwealth, 283 Va. 273, 720 S.E.2d 74 (2012)
- Pettaway v. Commonwealth, 2010 Va. LEXIS 157 (Apr. 8, 2010)
- Ward v. Commonwealth, 273 Va. 211, 639 S.E.2d 269 (2007)
- Dixon v. Commonwealth, 270 Va. 34, 613 S.E.2d 398 (2005)
- Paugh v. Henrico Area Mental Health & Developmental Servs., 286 Va. 85, 87 n.1, 743 S.E.2d 277, 278 n.1 (2013)
- Davis v. Commonwealth, 282 Va. 339, 339, 717 S.E.2d 796, 796-97 (2011)
- Conyers v. Martial Arts World of Richmond, Inc., 273 Va. 96, 104 n.4, 639 S.E.2d 174, 177 n.4 (2007)
- Yeatts v. Murray, 249 Va. 285, 290, 455 S.E.2d 18, 21 (1995)
- Chesapeake Hosp. Auth. v. Commonwealth, 262 Va. 551, 557 n.2, 554 S.E.2d 55, 57 n.2 (2001)
- Lamb v. Commonwealth, 141 Va. 481, 489, 126 S.E. 3, 5 (1925)
- Orr v. Pennington, 93 Va. 268, 269-70, 24 S.E. 928, 928 (1896)
- Harmon v. Peery, 145 Va. 578, 583, 134 S.E. 701, 702 (1926)
- Board of Supervisors v. Board of Zoning Appeals, 271 Va. 336, 347, 626 S.E.2d 374, 381 (2006)
- Exxon Mobil Corp. v. Minton, 285 Va. 115, 128 n.1, 737 S.E.2d 16, 26 n.1 (2012)

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