

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State v. Booth, 224 W. Va. 307

685 S.E.2d 701 (2009) · No. No. 34711 · Decided October 29, 2009

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed an 80-year sentence imposed on Richard Booth after his guilty plea to first-degree robbery. The court rejected his claims that the sentence was unconstitutionally harsh and disproportionate and that it was impermissibly disparate from the sentences imposed on his codefendants. The court also upheld the circuit court's refusal to sentence Booth under the Young Adult Offenders Act.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	October 29, 2009
DOCKET	No. 34711
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Circuit Court of Ohio County's order sentencing him to eighty years in prison after he pleaded guilty to first-degree robbery.
STANDARD OF REVIEW	Sentencing orders are reviewed under a deferential abuse-of-discretion standard unless the order violates statutory or constitutional commands. The denial of youthful-offender classification is also reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Richard Booth v. State of West Virginia

TOPICS

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

PRACTICE AREAS

[criminal law](#) [sentencing](#) [constitutional law](#) [appellate procedure](#)

QUESTIONS PRESENTED

1. Whether Booth's eighty-year sentence for first-degree robbery violated the West Virginia and federal constitutional prohibitions against cruel and unusual punishment because it was harsh or disproportionate.
2. Whether Booth's sentence was impermissibly disparate from the sentences imposed on his codefendants.
3. Whether the circuit court abused its discretion by declining to sentence Booth under the Young Adult Offenders Act.

HOLDINGS

1. The eighty-year sentence for first-degree robbery did not shock the conscience and was not disproportionate to the nature and character of Booth's offense.
2. Booth's harsher sentence than those imposed on his codefendants was not unconstitutional or otherwise erroneous.
3. The circuit court did not abuse its discretion by declining to sentence Booth under the Young Adult Offenders Act.

KEY QUOTATIONS

"Sentences imposed by the trial court, if within statutory limits and if not based on some [im]permissible factor, are not subject to appellate review." (685 S.E.2d 707)

"Punishment may be constitutionally impermissible, although not cruel or unusual in its method, if it is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity" (685 S.E.2d 708)

"Disparate sentences for codefendants are not per se unconstitutional." (685 S.E.2d 709)

FACTUAL BACKGROUND

Booth and three others traveled to Wheeling intending to obtain money to purchase illegal drugs. After an unsuccessful attempt to gain access to an elderly woman's apartment, Booth and a juvenile co-defendant followed eighty-two-year-old Doris Schafer and attempted to pull her purse from behind, causing her to fall and sustain serious hip and femur injuries requiring multiple surgeries. Booth was twenty years old, had an extensive criminal record, committed the robbery while on bond for another felony charge, and pleaded guilty to first-degree robbery.

PROCEDURAL HISTORY

Booth was charged with two counts of attempted first-degree robbery, assault in the commission of a felony, and conspiracy to commit robbery. Under a plea agreement, he pleaded guilty to one count of first-degree robbery in exchange for dismissal of the remaining counts. The circuit court imposed an eighty-year sentence, and Booth appealed, arguing that the sentence was constitutionally harsh and disproportionate and that he should have been treated as a youthful offender.

DISPOSITION

affirmed

CASES CITED

- State v. Lucas, 201 W. Va. 271, 496 S.E.2d 221 (1997)
- State v. Goodnight, 169 W. Va. 366, 287 S.E.2d 504 (1982)
- Wanstreet v. Bordenkircher, 166 W. Va. 523, 276 S.E.2d 205 (1981)
- State v. Vance, 164 W. Va. 216, 262 S.E.2d 423 (1980)
- State v. Cooper, 172 W. Va. 266, 304 S.E.2d 851 (1983)
- State v. Broughton, 196 W. Va. 281, 470 S.E.2d 413 (1996)
- State v. Ross, 184 W. Va. 579, 402 S.E.2d 248 (1990)
- State v. Allen, 208 W. Va. 144, 539 S.E.2d 87 (2000)
- State v. Hersman, 161 W. Va. 371, 242 S.E.2d 559 (1978)
- State v. Buck, 173 W. Va. 243, 314 S.E.2d 406 (1984)
- State v. Tyler, 211 W. Va. 246, 565 S.E.2d 368 (2002)
- State v. King, 205 W. Va. 422, 518 S.E.2d 663 (1999)
- State v. Mann, 205 W. Va. 303, 518 S.E.2d 60 (1999)
- State v. Phillips, 199 W. Va. 507, 485 S.E.2d 676 (1997)
- State v. Woods, 194 W. Va. 250, 460 S.E.2d 65 (1995)
- State v. Spence, 182 W. Va. 472, 388 S.E.2d 498 (1989)
- State v. England, 180 W. Va. 342, 376 S.E.2d 548 (1988)
- State v. Brown, 177 W. Va. 633, 355 S.E.2d 614 (1987)
- State v. Glover, 177 W. Va. 650, 355 S.E.2d 631 (1987)
- 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)