

Wednesday, April 25, 2007

### Recent Virginia Supreme Court opinions

Image from Virginia Forestry Dept's website. Virginia's Supreme Court releases a package of appellate opinions about every seven to eight weeks. Following is an overview of some of the court's recent key criminal decisions: A - A passenger's possession of a bottle of illegal drugs -- without more evidence than that -- is insufficient for convicting the driver of joint possession of those drugs. Jordan v. Com., \_\_ Va. \_\_ (April 20, 2007). A - A defendant's unauthorized retrieval of property seized by police does not constitute obstruction of justice, nor does physical resistance to being escorted by the police to and from the magistrate's office. Jordan v. Com., \_ Va. \_ (April 20, 2007). A - "Penal statutes, however, must be construed 'in favor of a citizen's liberty.'" Moreover, an accused cannot be punished unless his or her case falls "plainly and unmistakably within the statute." Washington v. Com., \_\_ Va. \_ (April 20, 2007). In this case, when the defendant was insisting on being transported immediately back to the jail from the courthouse, he told a deputy sheriff: "[F]--- you. I will kill you, too." The Virginia Supreme Court reversed the Virginia Court of Appeal's affirmation of Washington's conviction for felonious obstruction of justice, because the prosecutor "presented no proof that, at the time Washington made the threatening statement, Deputy Bailey was engaged in the discharge of any duty 'relating to a violation of or conspiracy to violate' one of the felony offenses listed in that subsection." A - "Here, because the improper evidence of other crimes was presented during the guilt phase of Young's criminal trial, not in his sentencing proceeding, the remedy of a new sentencing proceeding afforded by Code Â§ 19.2-295.1 is inapplicable. Accordingly, we hold that the Court of Appeals erred in ordering that Young's case be remanded solely for a new sentencing proceeding. A "For these reasons, we will reverse the Court of Appeals' judgment and remand the case to the Court of Appeals for further remand to the circuit court for a new trial on the robbery indictment, if the Commonwealth be so advised." Leon v. Com., \_ Va. \_ (April 20, 2007). A - The death penalty machine is alive and well in Virginia. In this affirmed murder for hire death penalty appeal, Virginia's Supreme Court lists its precedents rejecting various challenges to Virginia's death penalty. Teleguz v. Com., \_ Va. \_ (April 20, 2007), slip op. at 15. A - "[L]icensed clinical social workers who are authorized to diagnose mental disorders by statute in appropriate circumstances, may render expert testimony regarding such diagnoses. However, it remains incumbent upon the trial court to determine whether a particular licensed clinical social worker has the skill, knowledge, and experience regarding the pertinent subject matter to qualify as an expert." Conley v. Com., \_\_ Va. \_\_ (April 20, 2007). Jon Katz.

Posted by Jon Katz in Criminal Defense at 05:10