

Sunday, November 26, 2006

### **In Virginia, what sentencing evidence may a defendant present to the jury?**

In Virginia, if the jury enters a guilty verdict, then the jury will be presented with evidence for rendering a sentencing recommendation. The relevant code section, Va. Code Â§Â§ 19.2-295.1Â provides the following general guidelines for the evidence that may be addressed at sentencing: Â - The prosecutorÂ shall present the defendant's prior criminal convictions, including adult convictions and juvenile convictions and adjudications of delinquency. The prosecutor, at this phase, may not present evidence of the sentence imposed. Gillespie v. Com., Va. Rec. No. 06-0034 (Nov. 2006).Â - After the prosecutor has introduced evidence of prior convictions, or if no such evidence is introduced, the defendant may introduce relevant, admissible evidence related to punishment. Â - Nothing shall prevent the Commonwealth or the defendant from introducing relevant, admissible evidence in rebuttal.Â Concerning the evidence that the defense may present at trial, the Virginia Supreme Court has said: Â "We perceive no sound reason why the factors that may be considered by a jury in capital murder cases should not likewise be available for consideration by a jury in noncapital cases under Â§Â§ 19.2-295.1. The goal of having an informed jury assess appropriate punishment should be no less essential merely because a noncapital offense is involved.Â "But this is not a one-way street extending only in the defendant's direction. The statute also permits the Commonwealth to introduceÂ 'relevant, admissible evidence in rebuttal' to that offered by the defendant." Commonwealth v. Shifflett, 257 Va. 34, 510 S.E.2d 232 (1999). Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00