

COURT OF APPEALS OF VIRGINIA

Present: Chief Judge Fitzpatrick, Judges Willis and Annunziata  
Argued at Alexandria, Virginia

TERRANCE DARNELL BOYKIN

v. Record No. 1718-97-4

MEMORANDUM OPINION\* BY  
JUDGE JERE M. H. WILLIS, JR.  
DECEMBER 8, 1998

COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY  
Frank A. Hoss, Jr., Judge

Corinne J. Magee for appellant.

Richard B. Smith, Assistant Attorney General  
(Mark L. Earley, Attorney General, on brief),  
for appellee.

Upon appeal from his conviction for rape, in violation of Code § 18.2-61, Terrance Darnell Boykin contends that the trial court erred in granting the Commonwealth's motion in limine to prevent Boykin from mentioning on voir dire the penalty for rape.

We affirm the judgment of the trial court.

Boykin was charged with rape, in violation of Code § 18.2-61, and his case was set for trial before a jury. The Commonwealth moved in limine to bar Boykin from stating on voir dire the specific penalty he faced if convicted. The trial court granted the motion, and limited Boykin to telling the venire only that the charge was "a most serious offense with great consequences." The jury found Boykin guilty of rape and, following a sentencing hearing, fixed his punishment at seven

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\*Pursuant to Code § 17.1-413, recodifying Code § 17-116.010, this opinion is not designated for publication.

years in prison.

Boykin contends that the trial court's ruling impaired his constitutional right to an impartial jury.<sup>1</sup> He argues that because he was forbidden to ask the venire on voir dire about their predispositions concerning punishments, he was prevented from striking those veniremen who were predisposed to heavy sentences regardless of the evidence and the trial court's instructions.

Boykin is barred from raising the constitutional issue on appeal because he did not state that issue as a ground for objection at trial. Rule 5A:18. See Jacques v. Commonwealth, 12 Va. App. 591, 593, 405 S.E.2d 630, 631 (1991). Objecting at trial to the motion in limine, Boykin argued simply that the gravity and enormity of the sentence should be considered by the jury. Counsel for Boykin argued as follows:

I understand that this is a bifurcated trial but I also think that the jury needs to understand that this is a most serious offense under Virginia statutes and that in fact Mr. Boykin could in fact received [sic] a life sentence. This is not a ten or fifteen year offense and I think that the magnitude and the enormity of that sentence is something and a fact that the jury should be made aware of up front . . . . Because I think that when they consider all of the evidence and they consider the credibility of the witnesses and they consider all the other tangible and intangible demonstrative evidence they need to have in the back of their mind that they are considering these things in view of the fact that they could

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<sup>1</sup>Boykin cites U.S. Constitution Amendments VI and XIV and Virginia Constitution Article 1, Section 8.

give this person a life sentence. I think it's proper and that they should have that information prior to hearing the case.

Boykin never argued that granting the motion in limine would violate his constitutional right to an impartial jury. See Cottrell v. Commonwealth, 12 Va. App. 570, 574, 405 S.E.2d 438, 441 (1991).

The judgment of the trial court is affirmed.

Affirmed.