

Payne Vs. Virginia

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Court : US Supreme Court

Decided On : Jul-05-1984

Appeal No. : 467 U.S. 1062

Appellant : Payne

Respondent : Virginia

Judgement :

Payne v. Virginia - 467 U.S. 1062 (1984)

U.S. Supreme Court Payne v. Virginia, 467 U.S. 1062 (1984)

Payne v. Virginia

No. 82-6935

Decided July 5, 1984

467 U.S. 1062

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME

COURT OF VIRGINIA

SYLLABUS

Held: The Double Jeopardy Clause barred the state court prosecution and conviction of petitioner for the lesser included offense of robbery that followed his prior conviction for capital murder committed during the perpetration of the robbery.

Certiorari granted; reversed.

PER CURIAM.

This petition for certiorari seeks review of a judgment of the Supreme Court of Virginia rejecting petitioner's double jeopardy challenge to a conviction for robbery which followed a prior conviction for capital murder committed during the perpetration of the robbery while armed with a deadly weapon. In this case, as in *Harris v. Oklahoma*, [433 U. S. 682](#) (1977) (per curiam), where

"conviction of a greater crime, murder, cannot be had without conviction of the lesser crime, robbery . . . , the Double Jeopardy Clause bars prosecution for the lesser crime after conviction of the greater one."

Ibid. See also *In re Nielsen*, [131 U. S. 176](#) , [131 U. S. 188](#) (1889).

Accordingly, the motion for leave to proceed *in forma pauperis* is granted, the petition for writ of certiorari is granted, and the judgment of the Supreme Court of Virginia is reversed. *Harris v. Oklahoma, supra*.

It is so ordered.

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