

Payne Vs. Virginia

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Court : US Supreme Court

Decided On : Jul-05-1984

Appeal No. : 468 U.S. 1062

Appellant : Payne

Respondent : Virginia

Judgement :

PAYNE v. VIRGINIA - 468 U.S. 1062 (1984)

U.S. Supreme Court PAYNE v. VIRGINIA, 468 U.S. 1062 (1984) **468 U.S. 1062**

PAYNE v. VIRGINIA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

No. 82-6935.

Decided July 5, 1984

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, 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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