

COURT OF APPEALS OF VIRGINIA

Present: Chief Judge Moon, Judge Annunziata  
and Senior Judge Hodges  
Argued at Richmond, Virginia

CESAR HERNANDEZ BLAKE, JR.

v. Record No. 1172-94-2  
COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION\* BY  
JUDGE WILLIAM H. HODGES  
AUGUST 1, 1995

FROM THE CIRCUIT COURT OF LOUISA COUNTY  
F. Ward Harkrader, Jr., Judge

Darwyn H. Lesh for appellant.

Thomas C. Daniel, Assistant Attorney General (James S. Gilmore, III, Attorney General, on brief), for appellee.

Upon his plea of guilty, appellant, Cesar Hernandez Blake, was convicted of conspiracy to distribute more than five pounds of marijuana. On appeal, he contends that the evidence presented by the Commonwealth was insufficient to constitute an offense under existing Virginia law. We affirm the conviction.

On November 8, 1993, appellant pled guilty to the charge of conspiracy to distribute more than five pounds of marijuana. The trial judge extensively and thoroughly questioned appellant to ensure that his plea was being entered freely and knowingly. The trial judge accepted appellant's guilty plea and the Commonwealth presented evidence concerning the conspiracy charge. Appellant agreed, "that would be the Commonwealth's evidence if it were

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

presented."

Appellant now argues that the Commonwealth's evidence "not only does not support the plea of guilty, but has the opposite effect by indicating that in fact no conspiracy . . . as charged in the indictment, ever existed."

The Supreme Court of Virginia has held that the Commonwealth is not required to present evidence to support a guilty plea.

[T]he introduction of evidence to sustain a conviction upon a guilty plea is . . . unnecessary in any criminal case. In Crutchfield v. Commonwealth, 187 Va. 291, 296, 46 S.E.2d 340, 342 (1948), we said that a "plea of guilty, accepted and entered by the court, is a conviction or the equivalent of a conviction of the offense to which it is directed." And in Peyton v. King, 210 Va. 194, 196, 169 S.E.2d 569, 571 (1969), we held that "a voluntary and intelligent plea of guilty by an accused is, in reality, a self-supplied conviction authorizing imposition of the punishment fixed by law. It is a waiver of all defenses other than those jurisdictional."

If, as Crutchfield and King teach us, a plea of guilty is a self-supplied conviction of the offense to which it is directed, the law would engage in superfluities to impose a requirement that evidence is necessary to sustain that which sustains itself. And if, as King holds, a plea of guilty is a waiver of all defenses save those jurisdictional, included in the waiver is the potential defense of lack of evidence or of insufficiency of evidence.

In accepting a plea of guilty, any Virginia trial judge is, of course, free to hear the evidence he deems necessary to an understanding of the case and to the fixing of an appropriate sentence. This does not mean, however, that evidence must be heard upon a plea of guilty.

Kibert v. Commonwealth, 216 Va. 660, 664, 222 S.E.2d 790, 792 (1976). Accordingly, the appellant's plea of guilty was sufficient to sustain the trial court's finding of guilt. The Commonwealth was not required to present evidence to support appellant's guilty plea.

Appellant's second and third issues are rendered moot by virtue of this Court's ruling on the first issue.

For the reasons stated, the judgment of the trial court is affirmed.

Affirmed.