

COURT OF APPEALS OF VIRGINIA

Present: Judges Alston, Huff and Senior Judge Coleman
Argued at Salem, Virginia

TRAVIS WADE SPENCE

v. Record No. 1492-10-3

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION* BY
JUDGE SAM W. COLEMAN III
APRIL 3, 2012

FROM THE CIRCUIT COURT OF BUCHANAN COUNTY
Patrick R. Johnson, Judge

Helen E. Phillips (Charles H. Slemp, III; McGlothlin & Phillips,
PLLC; Slemp Law Office, PLLC, on brief), for appellant.

Donald E. Jeffrey, III, Senior Assistant Attorney General
(Kenneth T. Cuccinelli, II, Attorney General, on brief), for appellee.

Travis Wade Spence (appellant) appeals his convictions of first-degree murder and obstruction of justice. On appeal, appellant contends the trial court erred in denying his motion to set aside the verdict because trial counsel did not render him effective assistance. However, claims raising ineffective assistance of counsel are not cognizable on direct appeal.¹ See Blevins v. Commonwealth, 267 Va. 291, 296, 590 S.E.2d 365, 368 (2004). “Claims of ineffective assistance of counsel may no longer be raised on direct appeal. Code § 19.2-317.1, which had allowed direct appeal of such claims under certain circumstances, was repealed in 1990. 1990 Va. Acts, c. 74.” Browning v. Commonwealth, 19 Va. App. 295, 297 n.2, 452 S.E.2d 360, 362 n.2 (1994).

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

¹ Claims of ineffective assistance of trial counsel may be raised for the first time in a state habeas corpus proceeding without violating Virginia law that non-jurisdictional issues that could have been raised at trial and on direct appeal are not cognizable in a petition for a writ of habeas corpus. See Walker v. Mitchell, 224 Va. 568, 571, 299 S.E.2d 698, 699 (1983).

Accordingly, we do not address the merits of appellant's argument, and appellant's convictions are affirmed.

Affirmed.