

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond, on Thursday, the 1st day of February, 1996.

Ronnie Lockhart,

Appellant,

against Record No. 950114
 Court of Appeals No. 0364-92-4

Commonwealth of Virginia,

Appellee.

Upon an appeal from a judgment rendered by the Court of Appeals of Virginia on the 20th day of December, 1994.

Upon consideration of the record, briefs, and argument of counsel, the Court is of opinion that no error exists in the judgment of the Court of Appeals. See Lockhart v. Commonwealth, 19 Va. App. 436, 451 S.E.2d 421 (1994). The Court of Appeals, sitting en banc, affirmed without opinion by an equally divided court a judgment entered on January 22, 1992 by the Circuit Court of Prince William County and withdrew an opinion rendered on April 26, 1994 by a panel of the Court of Appeals. See Lockhart v. Commonwealth, 18 Va. App. 254, 443 S.E.2d 428 (1994).

The central issue is whether the circuit court erred by allowing testimony in this drug distribution case regarding facts surrounding an arrest of defendant for a drug offense that occurred eight months after the arrest in the present case.

The record discloses that defense counsel, during cross-examination of a prosecution witness, both by a statement made in the jury's presence and by questioning of the witness, voluntarily and with the apparent purpose of improving defendant's standing

before the jury, put in issue defendant's alleged innocence of other drug transactions to create an impression in defendant's favor, which the prosecution was justified in rebutting. Roy v. Commonwealth, 191 Va. 722, 726-28, 62 S.E.2d 902, 903-04 (1951); Locke v. Commonwealth, 149 Va. 447, 451-52, 141 S.E. 118, 120 (1928); Harris v. Commonwealth, 129 Va. 751, 753-54, 105 S.E. 541, 542 (1921).

Accordingly, the judgment from which this appeal is taken is affirmed.

Justice Koontz took no part in the consideration of this case.

This order shall be certified to the Court of Appeals and to the said circuit court, and shall be published in the Virginia Reports.

A Copy,

Teste:

David B. Beach,
Clerk