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# Recent Developments: Johnson v. State: An Inchoate Crime Sentence Shall Not Exceed the Maximum Sentence, without Enhancements, of the Target Crime

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***Johnson v. State:***  
**An Inchoate Crime Sentence Shall Not Exceed the Maximum Sentence,  
Without Enhancements, of the Target Crime**

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By Camela J. Chapman

The Court of Appeals of Maryland held that life imprisonment without the possibility of parole is not a legal sentence for conspiracy to commit murder. *Johnson v. State*, 2001 Md. LEXIS 18 (2001). The court's ruling clarified that death or life imprisonment without the possibility of parole are "enhanced" sentences for first degree murder, and thus are dependant upon special circumstances. *Id.* at 6. Accordingly, when a sentencing provision provides that the punishment for an inchoate crime shall not exceed the maximum punishment provided for the target crime, the provision only contemplates the basic maximum sentence available for the target crime and does not incorporate the enhanced penalty provisions. *Id.* at 11.

On November 10, 1997, Judy Forrester, a disabled woman, was found in her home bound with duct tape and fatally shot. Rondell Johnson ("Johnson") was convicted of murder, robbery, conspiracy to commit those crimes, and other offenses.

Johnson was found guilty in the Circuit Court for Prince George's County of first-degree

premeditated murder, robbery with a deadly weapon, first-degree burglary, use of a handgun in the commission of a felony or crime of violence, conspiracy to commit murder, and conspiracy to commit robbery. Johnson was sentenced to life imprisonment without the possibility of parole for the first-degree premeditated murder conviction and a consecutive sentence of life without parole for the conspiracy to commit murder. On appeal, the court of special appeals affirmed Johnson's sentence. The court of appeals granted Johnson's petition for a writ of certiorari to determine whether life without parole is a legal sentence for the crime of conspiracy to commit murder.

First, the court examined Maryland case law interpreting Maryland Code (1957, 1996 Repl. Vol.), Art. 27, § 38 and § 412(b). *Id.* at 4. Section 38 mandates the punishment for conspiracy and provides that the punishment cannot exceed the maximum punishment provided for the substantive offense. *Id.* In addition, § 412(b) provides that the punishment for first-degree murder "shall be imprisonment for life" unless the State seeks death or life without parole. *Id.* at 5.

The State must meet other special conditions for death, or life without parole. *Id.* at 5.

Second, the court reviewed *Sucik v. State*, which held that "death and life imprisonment without the possibility of parole are enhanced sentences for first-degree murder, and are dependent upon special circumstances," and because an enhanced punishment is "highly penal," it has to be strictly construed. *Id.* at 7 (citing *Sucik v. State*, 344 Md. 611, 616-617, 689 A.2d 78, 80 (1997)). The court remarked "conspiracy" is a common-law inchoate offense for which the General Assembly limited, by statute, the punishment to the maximum sentence of the substantive crime. *Id.* at 8. The court also observed that Maryland precedent recognizes that this limitation on the conspiracy sentence, in reference to the maximum sentence of the substantive or target offense, means the "basic maximum sentence of the target offense and does not include any enhanced penalty provisions" for such an offense. *Id.* The United States Supreme Court has taken the same position in construing a federal statute providing that the sentence for attempt or

conspiracy “may not exceed the punishment prescribed for the offense which was the object of the attempt or the conspiracy.” *Id.*

Next, the court reviewed *Deleon v. State*, in which the same sentencing issue was involved but with a different target crime. *Id.* at 11 (citing *Deleon v. State*, 102 Md. App. 58, 72, 648 A.2d 1053, 1059 (1968)). In *Deleon*, the court held that when a sentencing provision states that the punishment for an inchoate crime shall not exceed the maximum punishment provided for the target crime, the provision only contemplates the basic maximum sentence available for the target crime and does not incorporate the enhanced penalty provisions. *Id.* Moreover, in support of its holding, the *Deleon* court pointed out, “that parole was not an inherent part of the judicial sentencing function and that, except in those limited circumstances when the Legislature has expressly empowered the courts to impose no-parole provisions under certain very specifically designed circumstances, the parole function is exclusively within the control of the executive branch of government.” *Id.* at 12. *Deleon* further pointed out that the Legislature made provisions for enhanced penalties for some particular types of conspiracies and if they wanted to “specifically [] provide enhanced penalties for ... conspirators, it knows how to do so expressly and does not rely

on implication.” *Id.* at 13 (citing *Deleon*, 102 Md. App. at 86, 648 A.2d at 1066-1067). The court held that life imprisonment without the possibility of parole is not a legal sentence for conspiracy to commit murder. Accordingly, the judgment of the court of special appeals was reversed. *Id.* at 17.

*Johnson v. State* clarifies the statutory sentencing provisions for inchoate offenses in Maryland. This holding illustrates that the Maryland Legislature did not intend to allow trial judges to use their discretion to enhance the sentencing penalties of inchoate crimes. With this holding, the court informs trial judges that “enhanced” sentence provisions are “sentencing options” available for special cases and special defendants and are not intended to apply to inchoate crimes of the target offense.