

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Blane Wolford

Wolford · No. No. 12-1326 · Decided September 3, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Blane Wolford’s conviction and sentence for unlawful assault. The court rejected challenges concerning the exclusion of prior harassment evidence, denial of a new trial, failure to provide the jury with written instructions, and admission of a 911 call. The decision was issued as a per curiam memorandum decision, with one justice dissenting.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	September 3, 2013
DOCKET	No. 12-1326
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Circuit Court of Hampshire County's sentencing order following his conviction for unlawful assault, challenging evidentiary rulings, denial of a new-trial motion, the failure to provide the jury with written instructions, and admission of a 911 call.
STANDARD OF REVIEW	A motion in limine is reviewed for abuse of discretion. A denial of a motion for new trial is entitled to great respect and weight and will be reversed when the trial court acted under a misapprehension of law or evidence. Sufficiency of the evidence is reviewed by viewing the evidence in the light most favorable to the prosecution and asking whether any rational trier of fact could find the essential elements beyond a reasonable doubt. An appellant bears the burden of showing error, and error will not be presumed. Under Rule 10(c)(7), inadequately supported appellate arguments may be disregarded.

PRECEDENTIAL VALUE	Unpublished memorandum decision; precedential status is not otherwise stated in the opinion.
PARTIES	Blane Wolford v. State of West Virginia

TOPICS

self defense evidence appellate procedure standard of review reasonable doubt

PRACTICE AREAS

criminal procedure evidence appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by excluding prior acts of harassment by the victim as too remote and prejudicial to support Wolford's claim of self-defense.
2. Whether the circuit court erred in denying Wolford's motion for a new trial on the ground that the verdict was contrary to the weight or sufficiency of the evidence.
3. Whether the circuit court committed reversible error by failing to provide the jury with a written copy of the jury instructions.
4. Whether the circuit court erred in admitting a 911 call when the record did not show that the call was actually played for the jury.

HOLDINGS

1. The circuit court did not abuse its discretion by excluding the victim's alleged harassment from 1995 to 2007 because the evidence was too remote and prejudicial to establish the victim's relevant state of mind at the time of the incident.
2. The circuit court correctly denied Wolford's motion for a new trial because the evidence was sufficient to convince a reasonable person of his guilt beyond a reasonable doubt.
3. The circuit court's failure to provide the jury with a written copy of the instructions did not warrant reversal because Wolford did not establish that the court promised to provide a copy or that counsel specifically requested one.
4. Wolford was not entitled to relief on his challenge to the 911 call because the trial transcript did not indicate that the State actually played the call for the jury, and his argument was therefore unsupported by the record.

KEY QUOTATIONS

“Importantly, the circuit court allowed into evidence that, roughly one month before the incident, the victim threatened to kill petitioner.” (at 1)

“The evidence need not be inconsistent with every conclusion save that of guilt so long as the jury can find guilt beyond a reasonable doubt.” (at 2)

“The Court may disregard errors that are not adequately supported by specific references to the record on appeal.” (at 3)

FACTUAL BACKGROUND

In June 2011, an arrest warrant was issued charging Wolford with malicious assault after he attacked the victim with a weed eater. At trial, the evidence indicated that the victim was not intoxicated and that Wolford attacked him first. The circuit court excluded evidence of harassment by the victim from 1995 to 2007 but allowed evidence that the victim had threatened to kill Wolford approximately one month before the incident.

PROCEDURAL HISTORY

An arrest warrant charged Wolford with malicious assault after an attack involving a weed eater. Following a jury trial, he was convicted of unlawful assault and sentenced to one to five years of incarceration. The circuit court denied his motion for a new trial, and Wolford appealed.

DISPOSITION

affirmed

CASES CITED

- McKenzie v. Carroll Intern. Corp., 216 W. Va. 686, 610 S.E.2d 341 (2004)
- State v. Woodson, 181 W. Va. 325, 382 S.E.2d 519 (1989)
- State v. Gangwer, 168 W. Va. 190, 283 S.E.2d 839 (1981)
- Sanders v. Georgia-Pacific Corp., 159 W. Va. 621, 225 S.E.2d 218 (1976)
- Andrews v. Reynolds Memorial Hospital, Inc., 201 W. Va. 624, 499 S.E.2d 846 (1997)
- Lively v. Rufus, 207 W. Va. 436, 533 S.E.2d 662 (2000)
- State v. White, 228 W. Va. 530, 722 S.E.2d 566 (2011)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. Juntilla, 227 W. Va. 492, 711 S.E.2d 562 (2011)
- State v. Stone, 229 W. Va. 271, 728 S.E.2d 155 (2012)
- Morgan v. Price, 151 W. Va. 158, 150 S.E.2d 897 (1966)
- Benson v. AJR, Inc., 226 W. Va. 165, 698 S.E.2d 638 (2010)
- West Virginia Department of Health & Human Resources Employees Federal Credit Union v. Tennant, 215 W. Va. 387, 599 S.E.2d 810 (2004)