

SUPREME COURT OF NEBRASKA

State v. Garcia

302 Neb. 406 (2019) · No. No. S-17-1202 · Decided March 8, 2019

SUMMARY

The Nebraska Supreme Court affirmed Carlos A. Garcia’s robbery conviction and sentence. The court addressed the admissibility of a robbery note obtained during a search of Garcia’s person, his competency to stand trial and be sentenced, the sufficiency of the evidence, ineffective assistance claims, and sentencing discretion.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	March 8, 2019
DOCKET	No. S-17-1202
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a Douglas County District Court conviction and sentence for robbery.
STANDARD OF REVIEW	Fourth Amendment suppression rulings are reviewed under a two-part standard: historical facts are reviewed for clear error, while the ultimate constitutional question is reviewed independently as a matter of law. Competency determinations are reviewed for insufficient evidence. Sufficiency of the evidence is reviewed by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the essential elements beyond a reasonable doubt. Whether ineffective-assistance claims can be resolved on direct appeal is a question of law based on the sufficiency of the record. Sentences within statutory limits are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Nebraska.
PARTIES	Carlos A. Garcia v. State of Nebraska

TOPICS

suppression of evidence

fourth amendment

warrant requirement

ineffective assistance

sentencing

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

sentencing

QUESTIONS PRESENTED

1. Whether the search of Garcia's person at police headquarters violated the Fourth Amendment or article I, section 7, of the Nebraska Constitution and required suppression of the robbery note.
2. Whether the investigatory stops and warrantless arrest leading to the search were supported by reasonable suspicion and probable cause.
3. Whether the district court had sufficient evidence to find Garcia competent to stand trial and to be sentenced.
4. Whether sufficient evidence established that Garcia committed robbery by putting the bank teller in fear.
5. Whether Garcia's ineffective-assistance claims could be resolved on direct appeal or were sufficiently pleaded for later postconviction review.
6. Whether the cumulative effect of alleged errors required reversal.
7. Whether Garcia's sentence was excessive or constituted an abuse of discretion.

HOLDINGS

1. The first vehicle stop was supported by reasonable suspicion because officers observed the vehicle without license plates or visible in-transit tags. The second investigatory stop was also valid because officers reasonably suspected that the vehicle was the same one that had fled the first stop and Garcia fit the description of its driver. The resulting arrest was supported by probable cause.
2. The search of Garcia's person at police headquarters was valid as an inventory search and the robbery note was properly admitted into evidence.
3. The district court did not err in finding Garcia competent to stand trial and competent to be sentenced, and Garcia's courtroom behavior did not require a new competency determination.
4. The evidence was sufficient to prove robbery under Neb. Rev. Stat. § 28-324 because Garcia's robbery note and the surrounding circumstances would have placed a reasonable person in fear.
5. Two ineffective-assistance claims were sufficiently stated but could not be resolved on the direct-appeal record; a third was insufficiently particularized and was not preserved for postconviction review; and the speedy-trial ineffective-assistance claim was meritless because excludable periods kept the prosecution within the statutory deadline.
6. The 6-to-10-year sentence was within the statutory range and did not constitute an abuse of discretion.

KEY QUOTATIONS

“We stated that inventory searches must be conducted pursuant to an established routine, because “an inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence.””
(at 426)

“Merging the principles just recited, we hold that to find the element of taking “by putting in fear” under the robbery statute, § 28-324, the finder of fact must determine from the context established by the evidence, whether the defendant’s conduct would have placed a reasonable person in fear.” (at 433)

FACTUAL BACKGROUND

A bank teller testified that Garcia handed him a note stating, "THIS IS A ROBBERY PUT THE MONEY ON THE COUNTER," causing the teller to freeze and act out of fear and panic before giving Garcia \$3,579. Police later identified a vehicle associated with Garcia, conducted two encounters with the vehicle, and arrested Garcia after he fled on foot from the vehicle. At police headquarters, officers searched Garcia before placing him in an interview room and found cash, an envelope, and the robbery note. Garcia was found competent before trial and before sentencing, was convicted by a jury, and received a 6-to-10-year sentence.

PROCEDURAL HISTORY

Garcia was charged with robbery after allegedly handing a bank teller a note demanding money. The district court denied his motion to suppress, found him competent to stand trial and sentencing, conducted a jury trial, and entered a robbery conviction. The court sentenced him to 6 to 10 years' imprisonment. Garcia appealed, challenging admission of the robbery note, competency determinations, sufficiency of the evidence, ineffective assistance of counsel, cumulative error, and the sentence.

DISPOSITION

affirmed

CASES CITED

- State v. Brown, ante p. 53, 921 N.W.2d 804 (2019)
- State v. Martinez, 295 Neb. 1, 886 N.W.2d 256 (2016)
- State v. McCurdy, 301 Neb. 343, 918 N.W.2d 292 (2018)
- State v. Hood, 301 Neb. 207, 917 N.W.2d 880 (2018)
- State v. Leahy, 301 Neb. 228, 917 N.W.2d 895 (2018)
- State v. Seckinger, 301 Neb. 963, 920 N.W.2d 842 (2018)
- State v. Rodriguez, 288 Neb. 878, 852 N.W.2d 705 (2014)
- State v. Childs, 242 Neb. 426, 495 N.W.2d 475 (1993)
- State v. Bowers, 250 Neb. 151, 548 N.W.2d 725 (1996)
- State v. Petsch, 300 Neb. 401, 914 N.W.2d 448 (2018)
- State v. Wells, 290 Neb. 186, 859 N.W.2d 316 (2015)
- State v. Perry, 292 Neb. 708, 874 N.W.2d 36 (2016)

- State v. Roberts, 261 Neb. 403, 623 N.W.2d 298 (2001)
- State v. Nunez, 299 Neb. 340, 907 N.W.2d 913 (2018)
- State v. Newman, 250 Neb. 226, 548 N.W.2d 739 (1996)
- Illinois v. Lafayette, 462 U.S. 640, 103 S. Ct. 2605, 77 L. Ed. 2d 65 (1983)
- State v. Filkin, 242 Neb. 276, 494 N.W.2d 544 (1993)
- State v. Rogers, 297 Neb. 265, 899 N.W.2d 626 (2017)
- State v. Ball, 271 Neb. 140, 710 N.W.2d 592 (2006)
- State v. Haynes, 299 Neb. 249, 908 N.W.2d 40 (2018)
- State v. Allen, 301 Neb. 560, 919 N.W.2d 500 (2018)
- State v. Fox, 282 Neb. 957, 806 N.W.2d 883 (2011)
- State v. Grant, 293 Neb. 163, 876 N.W.2d 639 (2016)
- State v. Golyar, 301 Neb. 488, 919 N.W.2d 133 (2018)
- State v. Smith, 292 Neb. 434, 873 N.W.2d 169 (2016)
- Delgado v. State, 105 So. 3d 612 (Fla. Dist. Ct. App. 2013)
- Washington v. Farnsworth, 185 Wash. 2d 768, 374 P.3d 1152 (2016)
- State v. Collinsworth, 90 Wash. App. 546, 966 P.2d 905 (1997)
- United States v. Hopkins, 703 F.2d 1102 (9th Cir. 1983)
- State v. Hunt, 214 Neb. 214, 333 N.W.2d 405 (1983)