

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Kissy Terice Jovan Mackey v. State of Florida

Kissy Terice Jovan Mackey v. State of Florida · No. 5D2024-1538 · Decided February 6, 2026

SUMMARY

The Fifth District Court of Appeal of Florida granted rehearing, withdrew its prior opinion, and substituted this opinion. The court held that the trial court erred by admitting a videotaped police interrogation containing repeated detective statements accusing the defendant of lying and expressing opinions about her guilt. The court reversed the judgment and sentence and remanded for a new trial.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Harris, J.; Lambert, J.; Kilbane, J.
JURISDICTION	Fifth District Court of Appeal of Florida
DECIDED	February 6, 2026
DOCKET	5D2024-1538
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mackey appealed her judgment and sentence following a criminal conviction. On the State's motion for rehearing, the court granted rehearing, withdrew its prior opinion, and substituted this opinion.
STANDARD OF REVIEW	Admission of the videotaped interrogation was reviewed for abuse of discretion; the court separately applied harmless-error review, under which the State bore the burden of showing that the error was harmless.
PRECEDENTIAL VALUE	published
PARTIES	Kissy Terice Jovan Mackey v. State of Florida

TOPICS

- evidence
- criminal procedure
- appellate procedure
- harmless error
- preservation of error

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by admitting a recorded police interrogation in which detectives repeatedly expressed opinions that Mackey was lying and was involved in the crime.
2. Whether the erroneous admission of the detectives' repeated accusations was harmless.

HOLDINGS

1. The trial court erred by admitting the objected-to portions of the videotaped interrogation in which detectives repeatedly accused Mackey of lying, described her as engaging in a pattern of lies, and expressed that she was guilty of being an accessory after the fact.
2. The State failed to establish that the erroneous admission of the detectives' repeated accusations was harmless.

KEY QUOTATIONS

“However, “a witness’s opinion as to the credibility, guilt or innocence of the accused is generally inadmissible, [and] ‘it is especially troublesome when a jury is repeatedly exposed to an interrogating officer’s opinion regarding the guilt or innocence of the accused.’” (at 2)

“Admission of these statements “essentially permitted the State to improperly elicit police opinion testimony and invade the province of the jury.”” (at 3)

“The comments resulted in an unfair trial where Mackey’s credibility was a feature of the trial.” (at 4)

FACTUAL BACKGROUND

Mackey was an eyewitness to the homicide of her boyfriend, Kelvin Saffore, at a Jacksonville residence where a fire also occurred. During the investigation, law enforcement developed Russell Brown as a suspect and learned that Mackey and Brown were romantically involved. Mackey gave conflicting and misleading statements and was interviewed twice; the second recorded interview, played for the jury, contained repeated detective statements accusing her of lying and indicating that she was involved in the murder.

PROCEDURAL HISTORY

Mackey was charged by amended information with being an accessory after the fact to capital murder based on allegedly providing false information to law enforcement. During her trial, the circuit court admitted a lengthy videotaped police interrogation containing repeated accusations by detectives that Mackey was lying and was involved in the murder. Mackey appealed, and on rehearing the Fifth District Court of Appeal reversed the judgment and sentence and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment and sentence and remand for a new trial.

CASES CITED

- Eugene v. State, 53 So. 3d 1104, 1112 (Fla. 4th DCA 2011)
- Jackson v. State, 18 So. 3d 1016, 1031-32 (Fla. 2009)
- McWatters v. State, 36 So. 3d 613, 637 (Fla. 2010)
- Roundtree v. State, 145 So. 3d 963, 965, 967 (Fla. 4th DCA 2014)
- Jackson v. State, 107 So. 3d 328, 339-42 (Fla. 2012)
- Page v. State, 733 So. 2d 1079, 1081 (Fla. 4th DCA 1999)
- Tumblin v. State, 29 So. 3d 1093, 1101 (Fla. 2010)
- Pausch v. State, 596 So. 2d 1216, 1219 (Fla. 2d DCA 1992)
- Gaines v. State, 155 So. 3d 1264, 1272 (Fla. 4th DCA 2015)

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