

SUPREME COURT OF KENTUCKY

Akers v. Commonwealth

172 S.W.3d 414 (Ky. 2005) · No. 2003-SC-1049-DG · Decided September 22, 2005

SUMMARY

The Supreme Court of Kentucky held that the Commonwealth violated its discovery obligations by failing to disclose a police report concerning the victim's physical injuries. Because the undisclosed report substantially impaired the defendant's entire defense, the court reversed all convictions for first-degree stalking, fourth-degree assault, and second-degree unlawful imprisonment and remanded for a new trial. The court did not reach the issue concerning the trial court's refusal to excuse a juror for cause.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Johnstone; Lambert, C.J.; Cooper; Graves; Johnstone; Roach; Scott; Wintersheimer
JURISDICTION	Kentucky
DECIDED	September 22, 2005
DOCKET	2003-SC-1049-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Akers sought discretionary review of a Kentucky Court of Appeals decision that reversed his unlawful-imprisonment and assault convictions but affirmed his first-degree stalking conviction. The Supreme Court of Kentucky reviewed whether the Commonwealth's discovery violation required reversal of the stalking conviction as well and whether the trial court improperly refused to excuse a juror for cause.
STANDARD OF REVIEW	The court reviewed the legal effect and prejudice resulting from a discovery violation under the applicable criminal discovery rules and reviewed the resulting trial-court remedial ruling for reversible error. The court did not reach the juror-for-cause and peremptory-challenge issue.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential
PARTIES	Billy Akers v. Commonwealth of Kentucky

TOPICS

discovery criminal

criminal procedure

appellate procedure

harmless error

preservation of error

PRACTICE AREAS

criminal procedure

criminal discovery

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the Commonwealth's failure to disclose Trooper White's signed assault report violated RCr 7.26 and prejudiced Akers's defense sufficiently to require reversal of all convictions, including first-degree stalking and unlawful imprisonment.
2. Whether Akers was denied his right to peremptory challenges when the trial court refused to excuse a juror for cause.

HOLDINGS

1. The signed assault report related to the subject matter of Trooper White's testimony and fell within RCr 7.26(1); the Commonwealth was required to disclose it.
2. The discovery violation prejudiced Akers because the undisclosed report materially undermined the defense strategy and created a reasonable probability of a different trial result.
3. Because the undisclosed report substantially impaired Akers's ability to defend the single incident underlying all charges, all convictions had to be reversed.

KEY QUOTATIONS

"Thus, when the undisclosed assault report came to light during trial, Akers' entire defense was unquestionably 'gutted.'" (417)

"As such, all of Akers' convictions must be reversed." (418)

FACTUAL BACKGROUND

Akers's wife and her fifteen-year-old daughter encountered him at their trailer after an earlier emergency protective order had restricted his contact with his wife. After an argument, Akers allegedly dragged both women into the trailer, handcuffed them together, and detained them overnight while periodically threatening to kill them. At trial, the defense claimed the incident was fabricated and relied heavily on a police report disclosed in discovery that indicated no injury. During the Commonwealth's examination of Trooper Kevin White, an undisclosed assault report documenting the wife's leg injury was revealed.

PROCEDURAL HISTORY

A Pike Circuit Court jury convicted Akers of first-degree stalking, fourth-degree assault, and two counts of second-degree unlawful imprisonment and sentenced him to four years' imprisonment. The Court of Appeals reversed the unlawful-imprisonment and assault convictions based on a discovery violation and an instructional

error, but affirmed the stalking conviction. The Supreme Court granted discretionary review, affirmed in part and reversed in part, vacated all convictions, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The convictions for first-degree stalking, fourth-degree assault, and second-degree unlawful imprisonment were vacated, and the matter was remanded to the Pike Circuit Court for a new trial consistent with the opinion.

CASES CITED

- Maynard v. Commonwealth, 497 S.W.2d 567 (Ky. 1973)
- Anderson v. Commonwealth, 864 S.W.2d 909 (Ky. 1993)
- Barnett v. Commonwealth, 763 S.W.2d 119 (Ky. 1988)
- Weaver v. Commonwealth, 955 S.W.2d 722, 725 (Ky. 1997)
- Wood v. Bartholomew, 516 U.S. 1, 5 (1995)
- Kyles v. Whitley, 514 U.S. 419, 432-36 (1995)
- United States v. Bagley, 473 U.S. 667, 682 (1985)