

SUPREME COURT OF RHODE ISLAND

State v. Roger Graham

941 A.2d 848 (R.I. 2008) · No. No. 2006-88-C.A. · Decided February 28, 2008

SUMMARY

The Supreme Court of Rhode Island affirmed Roger Graham’s convictions for first-degree murder, discharging a firearm during the commission of a crime of violence, and conspiracy, as well as his sentences, including life imprisonment without parole. The court rejected challenges to the jury instructions, including instructions on vicarious liability, aiding and abetting, and reasonable doubt. It also upheld the admission of testimony under the excited-utterance and consciousness-of-guilt theories.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Flaherty; Chief Justice Williams; Justice Goldberg; Justice Suttell; Justice Robinson
JURISDICTION	Rhode Island
DECIDED	February 28, 2008
DOCKET	No. 2006-88-C.A.
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his convictions for first-degree murder, discharging a firearm during the commission of a crime of violence, and conspiracy, as well as his sentence of life imprisonment without the possibility of parole.
STANDARD OF REVIEW	Jury instructions are reviewed de novo and considered as a whole; an erroneous instruction warrants reversal only if it could have misled the jury to the defendant's prejudice. Evidentiary rulings are reviewed for clear abuse of discretion. A motion for judgment of acquittal is reviewed by viewing the evidence in the light most favorable to the state, giving full credibility to the state's witnesses and drawing all reasonable inferences consistent with guilt. A sentence of life without parole is reviewed through the Supreme Court's independent judgment and discretion.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Rhode Island.

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QUESTIONS PRESENTED

1. Whether the trial justice violated the law-of-the-case doctrine by using jury instructions different from those used in Graham's two prior mistrials.
2. Whether the jury was properly instructed on vicarious liability arising from conspiracy.
3. Whether the jury was properly instructed that Graham could be convicted as an aider and abettor.
4. Whether the reasonable-doubt instruction requiring a firm belief improperly omitted a requirement of a firm lasting belief.
5. Whether testimony concerning the victim's wife's statements to a police officer was admissible under the excited-utterance exception to hearsay.
6. Whether testimony that Graham solicited the killing of the victim's son was admissible under Rhode Island Rules of Evidence 404(b) and 403.
7. Whether the evidence was sufficient to deny Graham's motion for judgment of acquittal on the conspiracy charge.
8. Whether the jury properly considered the murder-for-hire circumstance supporting life without parole.
9. Whether the life-without-parole sentence was appropriate.

HOLDINGS

1. The law-of-the-case doctrine did not apply because jury instructions used in a trial ending in a mistrial were not binding interlocutory rulings, and the trial justice properly used different instructions at the third trial.
2. The vicarious-liability instructions were proper because a member of a conspiracy may be held criminally responsible for acts committed by a coconspirator in furtherance of the unlawful purpose, including murder committed by another conspirator.
3. The trial justice properly instructed the jury that Graham could be convicted as an aider and abettor because the evidence supported an inference that he knowingly and actively assisted Tajendra Patel in the murder.
4. The reasonable-doubt instruction was adequate because the requirement that jurors have a firm belief in the defendant's guilt correctly defined reasonable doubt and did not require the additional word lasting.

5. The trial justice properly admitted the wife's description of the assailant under the excited-utterance exception because she remained under the stress of the startling event when she made the statements.
6. The testimony was admissible under Rules 404(b) and 403 because it was relevant to consciousness of guilt and its probative value was not substantially outweighed by unfair prejudice.
7. The evidence was sufficient to support a finding beyond a reasonable doubt that Graham conspired with Tajendra Patel to murder Sanjeev Patel, so denial of the motion for judgment of acquittal was proper.
8. The murder-for-hire circumstance does not require proof that money actually changed hands before the killing; proof of an agreement to exchange money is sufficient.
9. The sentence of life imprisonment without the possibility of parole was appropriate and was affirmed.

KEY QUOTATIONS

"We hold that the law-of-the-case doctrine is wholly inapplicable to the present situation; thus, the trial justice did not err when he provided jury instructions that differed from those used in defendant's prior mistrials." (856)

"Criminal conspiracies are furtive by nature and unlikely to be illuminated by sunshine." (863-864)

"After subjecting this record to our independent review, we hold that the sentence of life imprisonment without the possibility of parole was appropriate because the crime here belongs to the 'narrow class of the most heinous crimes,' for which we have reserved that sentence." (867)

FACTUAL BACKGROUND

Sanjeev Patel was shot and killed in the office of the Founder's Brook Motel in Portsmouth, Rhode Island, in front of his eight-year-old son. The evidence showed that Roger Graham traveled with or was assisted by Tajendra Patel, who had a motive to kill Sanjeev, and that Graham went into the motel office shortly before the shooting. Eyewitnesses identified Graham as the shooter, and other witnesses testified that Graham admitted shooting Sanjeev and discussed eliminating the child witness. Graham denied being the shooter but admitted accompanying Tajendra to the motel and entering the office to inspect it.

PROCEDURAL HISTORY

Graham was tried three times after the first two juries were unable to reach unanimous verdicts. The third jury convicted him on all three charges. The Superior Court sentenced him to life without parole for murder, a consecutive life sentence for discharging a firearm during a crime of violence, and a consecutive ten-year sentence for conspiracy. The Supreme Court of Rhode Island affirmed the convictions and sentences.

DISPOSITION

affirmed

CASES CITED

- State v. Imbruglia, 913 A.2d 1022, 1031 (R.I. 2007)

- Neri v. Nationwide Mutual Fire Insurance Co., 719 A.2d 1150, 1153 (R.I. 1998)
- Hueston v. Narragansett Tennis Club, Inc., 502 A.2d 827, 829 (R.I. 1986)
- State v. Mastracchio, 546 A.2d 165, 173 (R.I. 1988)
- State v. Tooher, 542 A.2d 1084, 1088 (R.I. 1988)
- Anter v. Ambeault, 104 R.I. 496, 501, 245 A.2d 137, 139 (1968)
- Richardson v. Smith, 691 A.2d 543, 546 (R.I. 1997)
- Salvatore v. Major Electric & Supply, Inc., 469 A.2d 353, 355-356 (R.I. 1983)
- Payne v. Superior Court for Providence County, 78 R.I. 177, 184-185, 80 A.2d 159, 163 (1951)
- Buonanno v. Colmar Belting Co., 736 A.2d 86, 87 (R.I. 1999) (mem.)
- Lutheran Day Care v. Snohomish County, 119 Wash. 2d 91, 829 P.2d 746, 756-757 (1992)
- Brown v. State, 953 P.2d 1170, 1180-1181 (Wyo. 1998)
- State v. Miller, 52 R.I. 440, 445, 161 A. 222, 225 (1932)
- Smith v. Groose, 205 F.3d 1045, 1050-1051 (8th Cir. 2000)
- State v. McMaugh, 512 A.2d 824, 831 (R.I. 1986)
- State v. Colvin, 82 R.I. 212, 219-220, 107 A.2d 324, 328 (1954)
- State v. Evans, 742 A.2d 715, 721 (R.I. 1999)
- State v. Gazerro, 420 A.2d 816, 828 (R.I. 1980)
- State v. Anderson, 752 A.2d 946, 951 (R.I. 2000)
- State v. Mohapatra, 880 A.2d 802, 805 (R.I. 2005)
- State v. Grayhurst, 852 A.2d 491, 504, 506 (R.I. 2004)
- State v. St. Jean, 469 A.2d 736, 738 (R.I. 1983)
- State v. Creighton, 462 A.2d 980, 983 (R.I. 1983)
- State v. Lemon, 497 A.2d 713, 720-721 (R.I. 1985)
- State v. Rice, 755 A.2d 137, 152 (R.I. 2000)
- Wells v. Uvex Winter Optical, Inc., 635 A.2d 1188, 1193 (R.I. 1994)
- State v. Fenner, 503 A.2d 518, 526 (R.I. 1986)
- State v. Otero, 788 A.2d 469, 475 (R.I. 2002)
- State v. Snow, 670 A.2d 239, 243 (R.I. 1996)
- State v. Clifton, 777 A.2d 1272, 1276-1277 (R.I. 2001)
- State v. Mattatall, 603 A.2d 1098, 1105 (R.I. 1992)
- State v. Parente, 460 A.2d 430, 440 (R.I. 1983)
- State v. Disla, 874 A.2d 190, 197 (R.I. 2005)
- State v. Lassiter, 836 A.2d 1096, 1104 (R.I. 2003)
- State v. Gordon, 508 A.2d 1339, 1349 (R.I. 1986)
- State v. Ahmadjian, 438 A.2d 1070, 1084-1085 (R.I. 1981)
- State v. Lough, 899 A.2d 468, 472-473 (R.I. 2006)
- State v. Carpenter, 275 Conn. 785, 882 A.2d 604, 651-652 n.26 (2005)

- People v. Patel, 366 Ill. App. 3d 255, 303 Ill. Dec. 560, 851 N.E.2d 747, 762 (2006)
- State v. Tassone, 749 A.2d 1112, 1119 (R.I. 2000)
- State v. Travis, 568 A.2d 316, 320 (R.I. 1990)
- State v. Brown, 898 A.2d 69, 86 (R.I. 2006)
- State v. Bertoldi, 495 A.2d 247, 253 (R.I. 1985)

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