

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Reaves

434 Mass. 383 (2001) · Decided June 21, 2001

SUMMARY

The Massachusetts Supreme Judicial Court affirmed Timothy Reaves’s first-degree murder conviction arising from a drive-by shooting, rejecting challenges concerning a coventurer’s out-of-court statements, sufficiency of the evidence, malice instructions, and the handling of a jury poll. The court also declined to reduce the conviction or order relief under G. L. c. 278, § 33E.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Sosman, J.
JURISDICTION	Massachusetts
DECIDED	June 21, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed his first-degree murder conviction based on joint venture liability, challenging the admission of a coventurer's statement, the denial of his motion for a required finding of not guilty, the malice instructions, and the court's handling of a jury poll.
STANDARD OF REVIEW	Unpreserved instructional and evidentiary claims were reviewed for a substantial likelihood of a miscarriage of justice. The sufficiency challenge was reviewed by asking whether, viewing the evidence and reasonable inferences in the light most favorable to the Commonwealth, a rational jury could find every element beyond a reasonable doubt. The murder conviction was also reviewed under the court's plenary authority pursuant to G. L. c. 278, § 33E.
PRECEDENTIAL VALUE	published precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Timothy Reaves v. Commonwealth

TOPICS

- criminal procedure
- evidence
- jury instructions
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether a statement by a coventurer concerning the acquisition of a firearm was admissible as a statement made during the course and in furtherance of a joint criminal enterprise.
2. Whether the evidence was sufficient to prove deliberate premeditation, intent to kill, and Reaves's participation and requisite mental state as a joint venturer.
3. Whether the failure to instruct the jury that only first-prong malice applied to deliberate-premeditation murder created a substantial likelihood of a miscarriage of justice.
4. Whether the judge erred by allowing the jury to resume deliberations after a poll, conducted after the verdict had been recorded, disclosed that one juror disagreed with the verdict.
5. Whether the court should exercise its plenary authority under G. L. c. 278, § 33E, to enter a finding of not guilty, reduce the conviction, or order a new trial.

HOLDINGS

1. A coventurer's statement is admissible against the defendant when it was made during the course of and in furtherance of a common criminal enterprise and sufficient nonhearsay evidence establishes an adequate probability that the declarant and defendant were engaged in that enterprise. Rose's statement requesting a gun was properly admitted because the evidence established the joint criminal enterprise and showed that the request furthered the planned retaliatory shooting.
2. Although the judge should have instructed the jury that it could not rely on the statement unless it first found, based on nonhearsay evidence, that a joint venture existed, the omission did not create a substantial likelihood of a miscarriage of justice.
3. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Reaves participated in the joint venture and shared the intent to kill and deliberate premeditation required for first-degree murder.
4. The judge's failure to expressly state that only first-prong malice applied to murder in the first degree based on deliberate premeditation did not create a substantial likelihood of a miscarriage of justice because the deliberate-premeditation instruction required a specific intent to kill, and the judge later instructed that a joint venturer had to share that intent.
5. A juror's subsequent expression of disagreement during a poll conducted after the verdict had been recorded did not invalidate the verdict or require a new trial, and the judge did not err by ordering the jury to resume deliberations.
6. The interests of justice did not require a new trial, entry of a finding of not guilty, or reduction of the first-degree murder conviction.

KEY QUOTATIONS

“An out-of-court statement by a joint venturer is admissible against a defendant if “(a) a statement was made during the course of and in furtherance of a common criminal enterprise and (b) there is sufficient nonhearsay evidence to establish an adequate probability that the declarant and the defendant were engaged in the criminal enterprise.”” (434 Mass. at 388)

“We therefore consider whether the omission of that instruction created a substantial likelihood of a miscarriage of justice.” (434 Mass. at 389)

“we determine whether the evidence offered by the Commonwealth, together with reasonable inferences therefrom, when viewed in its light most favorable to the Commonwealth, was sufficient to persuade a rational jury beyond a reasonable doubt of the existence of every element of the crime charged.” (434 Mass. at 390)

“When a verdict is received and recorded, and the jurors indicate their concurrence by affirming the verdict in open court, neither a juror’s change of heart nor a juror’s subsequent disclosure of a subjective disagreement with her apparent vote provides a basis for vacating the verdict.” (434 Mass. at 396)

FACTUAL BACKGROUND

After Reaves was humiliated and knocked unconscious during an attempted drug transaction at Magnet Park, he and three companions threatened to return and retaliate. The group later obtained a shotgun for the stated purpose of handling the confrontation, returned to the park with the shotgun and a handgun, and fired from a moving vehicle at the group involved in the earlier incident. Daniel Correia was killed and his brother Joseph was wounded; the evidence also connected the group to both firearms and the subsequent attempted disposal of the weapons.

PROCEDURAL HISTORY

Reaves was convicted by a jury of murder in the first degree for the drive-by shooting death of Daniel Correia. The jury specified that it found Reaves guilty as a joint venturer and acquitted him on the other indictments related to the incident. On direct appeal, he sought reversal, a new trial, or relief under the Massachusetts Supreme Judicial Court’s plenary authority under G. L. c. 278, § 33E. The Supreme Judicial Court affirmed the conviction and declined to reduce the degree of guilt or order a new trial.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Nascimento, 421 Mass. 677, 680-681 (1996)
- Commonwealth v. Rose, 47 Mass. App. Ct. 168, 174-175 (1999)
- Commonwealth v. Fernandes, 427 Mass. 90, 93 (1998)
- Commonwealth v. Pierce, 419 Mass. 28, 38-39 (1994)
- Commonwealth v. Campbell, 378 Mass. 680, 686 (1979)
- Commonwealth v. Latimore, 378 Mass. 671, 677 (1979)

- Commonwealth v. Mandile, 403 Mass. 93, 94 (1988)
- Commonwealth v. Ferguson, 384 Mass. 13, 18 (1981)
- Commonwealth v. Williams, 422 Mass. 111, 121, 123 (1996)
- Commonwealth v. Longo, 402 Mass. 482, 486 (1988)
- Commonwealth v. Soares, 377 Mass. 461, 470 (1979)
- Commonwealth v. Bourgeois, 404 Mass. 61, 63-64 (1989)
- Commonwealth v. Stewart, 398 Mass. 535, 541 (1986)
- Commonwealth v. Pucillo, 427 Mass. 108, 112-113 (1998)
- Commonwealth v. Jenks, 426 Mass. 582, 585 (1998)
- Commonwealth v. Diaz, 426 Mass. 548, 552-554 (1998)
- Commonwealth v. Gibson, 424 Mass. 242, 247 (1996)
- Commonwealth v. Roderick, 429 Mass. 271, 277 (1999)
- Commonwealth v. Hardy, 431 Mass. 387, 399 (2000)
- Commonwealth v. Dias, 419 Mass. 698, 703 (1995)
- Commonwealth v. Martell, 407 Mass. 288 (1990)
- Commonwealth v. Nettis, 418 Mass. 715, 716-719 (1994)
- Commonwealth v. Hebert, 379 Mass. 752, 756 (1980)