

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Delacruz

463 Mass. 504 (2012) · Decided October 11, 2012

SUMMARY

The Supreme Judicial Court of Massachusetts affirmed Jose Delacruz’s convictions for murder in the first degree and unlawful possession of a firearm. The court rejected claims concerning denial of counsel of choice, suppression of statements obtained after an out-of-State arrest, and jury instructions regarding mental impairment, and found no basis for relief under G. L. c. 278, § 33E.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Ireland, C.J.
JURISDICTION	Massachusetts
DECIDED	October 11, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from judgments convicting the defendant of murder in the first degree and possession of a firearm without a license, and from the denial of motions to suppress statements.
STANDARD OF REVIEW	Denial of a continuance is reviewed for abuse of discretion. On suppression review, subsidiary factual findings are accepted absent clear error, while ultimate findings and conclusions of law are reviewed independently. The adequacy of supplemental jury instructions is reviewed for abuse of discretion and in the context of the entire charge; unpreserved instructional claims are reviewed for a substantial likelihood of a miscarriage of justice.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court opinion; precedential.
PARTIES	Jose Delacruz v. Commonwealth

TOPICS

- criminal procedure
- right to counsel
- suppression of evidence
- miranda rights
- jury instructions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the denial of a continuance to permit substitution of privately retained counsel violated the defendant's Sixth Amendment right to counsel of choice or his right to effective assistance and due process.
2. Whether the trial judge abused his discretion by refusing, on the first day of trial, to permit the defendant to discharge appointed counsel.
3. Whether the defendant knowingly, intelligently, and voluntarily waived his Miranda rights and whether his statements were otherwise voluntary.
4. Whether delay in arraignment and the defendant's out-of-State arrest rendered his statements involuntary under the principles of *Commonwealth v. Rosario*.
5. Whether the judge was required to reinstruct the jury on the relevance of mental impairment after the jury asked about deliberate premeditation and extreme atrocity or cruelty.
6. Whether the defendant was entitled to relief under G. L. c. 278, § 33E.

HOLDINGS

1. The pretrial judge did not abuse his discretion by maintaining the May 12, 2009, trial date, which effectively denied the defendant's informal request for a continuance to obtain different counsel.
2. The trial judge did not abuse his discretion by refusing to allow the defendant to discharge appointed counsel immediately before the jury were sworn.
3. The Commonwealth proved beyond a reasonable doubt that Delacruz knowingly, intelligently, and voluntarily waived his Miranda rights and that his statements were voluntary.
4. The defendant's statements were not rendered involuntary by the delay in arraignment because he executed an informed and voluntary written waiver of his right to be arraigned without unreasonable delay, and the circumstances did not violate the spirit of the *Rosario* rule.
5. The judge was not required to repeat the portion of the main charge explaining how mental impairment bore on deliberate premeditation and extreme atrocity or cruelty when answering the jury's more specific questions about the definitions of those offenses.

KEY QUOTATIONS

"Because the defendant was advised of, and waived, his Miranda rights, the issue becomes whether the Commonwealth has proved, by a totality of the circumstances, that the defendant made a voluntary, knowing, and intelligent waiver of his rights, and that his statements were otherwise voluntary." (514-515)

"The safe harbor rule, however, also states that "[a]n otherwise admissible statement is not to be excluded on the ground of unreasonable delay in arraignment, if the statement is made within six hours of the arrest (day or night), or if (at any time) the defendant made an informed and voluntary written or recorded waiver of his right to be arraigned without unreasonable delay."" (517)

“The proper response to a jury question must remain within the discretion of the trial judge, who has observed the evidence and the jury firsthand and can tailor supplemental instructions accordingly.” (518)

FACTUAL BACKGROUND

During the early morning of February 8, 2007, Delacruz returned to a Boston convenience store, shot Tyrice Brown repeatedly, and fled. Surveillance video led police to identify him, and he was arrested in Wilmington, Delaware, on March 27, 2007. After receiving Miranda warnings and signing waivers, including an informed written waiver of prompt arraignment, he spoke with Boston detectives and admitted shooting Brown in retaliation for an earlier shooting. At trial, the defense presented evidence of Delacruz's limited intellectual functioning, depression, and posttraumatic stress symptoms.

PROCEDURAL HISTORY

A jury convicted Delacruz on May 19, 2009. Before trial, a motion judge denied two motions to suppress statements made after the defendant's arrest in Delaware. The defendant appealed, challenging denial of a continuance and substitution of counsel, the voluntariness and validity of his Miranda and prompt-arraignment waivers, and the jury instructions concerning mental impairment. The Supreme Judicial Court affirmed the judgments and the order denying suppression and declined to grant relief under G. L. c. 278, § 33E.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Pena, 462 Mass. 183, 189 (2012)
- Commonwealth v. Bettencourt, 361 Mass. 515, 517-518 (1972)
- Commonwealth v. Miles, 420 Mass. 67, 85 (1995)
- Commonwealth v. Souza, 397 Mass. 236, 240 (1986)
- Ungar v. Sarafite, 376 U.S. 575, 589 (1967)
- Commonwealth v. Bryer, 398 Mass. 9, 15 (1986)
- Barber v. Commonwealth, 353 Mass. 236, 240-241 (1967)
- Commonwealth v. Haley, 413 Mass. 770, 774-775 (1992)
- Commonwealth v. Jackson, 376 Mass. 790, 796-797 (1978)
- Commonwealth v. Moran, 388 Mass. 655, 659-660 (1983)
- Commonwealth v. Scott, 440 Mass. 642, 646 (2004)
- Commonwealth v. Jimenez, 438 Mass. 213, 218 (2002)
- Commonwealth v. Garcia, 443 Mass. 824, 828 (2005)
- Commonwealth v. Rosario, 422 Mass. 48, 51, 56 (1996)
- Commonwealth v. Morganti, 455 Mass. 388, 399-400 (2009)
- Commonwealth v. LeBeau, 451 Mass. 244, 254-255 (2008)

- Commonwealth v. Medeiros, 395 Mass. 336, 343 (1985)
- Commonwealth v. Tolan, 453 Mass. 634, 642 (2009)
- Commonwealth v. Mandile, 397 Mass. 410, 413 (1986)
- Commonwealth v. Cameron, 385 Mass. 660, 664 (1982)
- Commonwealth v. Jackson, 432 Mass. 82, 86-87 (2000)
- Commonwealth v. Wallen, 35 Mass. App. Ct. 915, 917 (1993)
- Commonwealth v. Bell, 455 Mass. 408, 420 (2009)
- Commonwealth v. Robinson, 449 Mass. 1, 7-8 (2007)
- Commonwealth v. Stokes, 440 Mass. 741, 750 (2004)
- Commonwealth v. Szlachta, ante 37, 48 (2012)
- Commonwealth v. Mercado, 456 Mass. 198, 206-207 (2010)
- Commonwealth v. Johnson, 429 Mass. 745, 753-754 (1999)
- Commonwealth v. Waite, 422 Mass. 792, 807 (1996)
- Commonwealth v. Cohen, 412 Mass. 375, 392 (1992)