

SUPREME COURT OF WYOMING

Brad Skinner v. The State of Wyoming

Skinner v. State, 33 P.3d 758 (Wyo. 2001) · No. No. 00-100 · Decided October 30, 2001

SUMMARY

The Wyoming Supreme Court affirmed Brad Skinner’s convictions for aggravated assault and battery and his life sentence as a habitual criminal. The court addressed juror misconduct, a hearing-impaired juror, the defendant’s absence from a juror-misconduct hearing, battered-woman-syndrome testimony, and other evidentiary and due-process claims. It concluded that any errors were harmless or did not warrant reversal.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kite, Justice; Lehman, C.J.; Golden, J.; Hill, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	October 30, 2001
DOCKET	No. 00-100
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for aggravated assault and battery and habitual-criminal status, resulting in a life sentence.
STANDARD OF REVIEW	Questions concerning the constitutional right to be present are reviewed de novo; evidentiary rulings are reviewed for abuse of discretion and, if erroneous, for harmless error; due-process claims are reviewed de novo; and the trial court's determination concerning juror prejudice is afforded deference.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Brad Skinner v. The State of Wyoming

TOPICS

- criminal procedure
- evidence
- jury selection
- due process
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- constitutional criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by allowing a juror who engaged in improper out-of-court communications and an attempted personal investigation to remain on the jury for the habitual-criminal proceeding.
2. Whether Skinner was prejudiced by the inclusion of a juror who was hard of hearing.
3. Whether Skinner was denied his right to be present at the hearing concerning the juror's misconduct.
4. Whether expert testimony concerning battered-woman syndrome and the general characteristics and escalation patterns of batterers was inadmissible profile or character evidence.
5. Whether the State's detention and treatment of the victim as a material witness coerced her testimony and violated Skinner's due-process rights.
6. Whether the trial court abused its discretion by excluding questioning concerning the victim's alleged methamphetamine use and withdrawal when Skinner made no offer of proof.

HOLDINGS

1. Improper juror communication or investigation alone does not require reversal; the defendant must also show prejudice. Because the trial court promptly held an appropriate hearing, the juror's inquiry concerned only the completed guilt phase, and the habitual-criminal phase concerned only prior convictions, Skinner was not prejudiced and the juror could remain empaneled.
2. A defendant seeking reversal based on a juror's inability to hear must demonstrate prejudice by showing that the juror failed to hear material portions of the trial. Skinner failed to make that showing.
3. Skinner had a constitutional right to be present at the fact-finding hearing concerning the juror's communications, but his absence was harmless beyond a reasonable doubt because it created no reasonable possibility of prejudice.
4. The State may not use battered-woman-syndrome testimony as a prosecutorial tool to covertly introduce expert evidence about batterers' dynamics and propensities to prove that the defendant acted in conformity with a batterer profile during the charged incident. The testimony here was inadmissible profile or character evidence, but its admission was harmless.
5. Detaining a material witness and agreeing to dismiss charges for avoiding service if the witness testified truthfully did not, on this record, coerce the victim's testimony or violate Skinner's due-process rights. The victim's credibility was for the jury, and the appellate court would not second-guess the jury's credibility determination.
6. Skinner failed to establish that the trial court abused its discretion by excluding the victim's alleged methamphetamine use and withdrawal because he made no offer of proof showing whether she used methamphetamine, suffered withdrawal, or how either condition affected her testimony.

KEY QUOTATIONS

“The introduction of the battered woman syndrome should not be a prosecutorial tool to covertly allow expert testimony regarding the dynamics and propensities of batterers intended to show a defendant acted in conformity therewith during the incident at issue.” (768)

“There was ample evidence from which the jury could conclude the knife was used without drawing any indirect inference from the expert's profile testimony” (769)

“Assertions and speculation in an appellate brief in no way take the place of an explicit offer of proof” (772)

FACTUAL BACKGROUND

After an argument at a bar and continued fighting at home, Skinner's wife testified that he assaulted her, threatened her with a knife, and held the knife to her throat. Police responding to a 911 call found a knife in Skinner's pocket, and the victim initially reported the knife threat to police. While Skinner was released on bond, the victim wrote a letter disclaiming the allegation, was detained as a material witness, and later testified after receiving independent counsel. The trial also involved a hearing-impaired juror who contacted defense counsel after the guilt-phase verdict and an expert's testimony concerning battered-woman syndrome.

PROCEDURAL HISTORY

Skinner was charged with aggravated assault and battery under Wyo. Stat. Ann. § 6-2-502(a)(iii). A jury found him guilty on August 3, 1999, and the same jury subsequently found him to be a habitual criminal based on eight prior felony convictions. On October 6, 1999, the district court sentenced him to life imprisonment. The Wyoming Supreme Court reviewed six alleged trial errors and affirmed.

DISPOSITION

affirmed

CASES CITED

- Distad v. Cubin, 633 P.2d 167, 182 (Wyo. 1981)
- McCoy v. Clegg, 36 Wyo. 473, 257 P. 484, 498 (1927)
- American Brake Shoe & Foundry Co. v. Jankus, 121 Ill. App. 267 (1905)
- Sisneros v. City of Laramie, 773 P.2d 933, 936 (Wyo. 1989)
- United States v. Hornung, 848 F.2d 1040, 1045 (10th Cir. 1988)
- United States v. Weiss, 752 F.2d 777, 783 (2d Cir. 1985), cert. denied, 474 U.S. 944 (1985)
- Smith v. Phillips, 455 U.S. 209, 217 (1982)
- Sorensen v. State, 6 P.3d 657, 661-62 (Wyo. 2000), cert. denied, 531 U.S. 1093 (2001)
- Belondon v. City of Casper, 456 P.2d 238, 242 (Wyo. 1969)
- Seeley v. State, 959 P.2d 170, 175, 177-78 (Wyo. 1998)
- Maupin v. State, 694 P.2d 720, 722-23 (Wyo. 1985)
- Bustamante v. Eyman, 456 F.2d 269, 274 (9th Cir. 1972)
- Snyder v. Massachusetts, 291 U.S. 97, 106-07 (1934)
- Sandy v. State, 870 P.2d 352, 359 (Wyo. 1994)
- United States v. Gagnon, 470 U.S. 522, 527 (1985)
- Solis v. State, 981 P.2d 34, 36 (Wyo. 1999)

- Trujillo v. State, 2 P.3d 567, 571 (Wyo. 2000)
- Griswold v. State, 2001 WY 14, ¶ 7, 17 P.3d 728, ¶ 7 (Wyo. 2001)
- Johnson v. State, 790 P.2d 231, 232 (Wyo. 1990)
- Ryan v. State, 988 P.2d 46, 52-57 (Wyo. 1999)
- Kerns v. State, 920 P.2d 632, 637-38 (Wyo. 1996)
- Hermreck v. State, 956 P.2d 335, 338 (Wyo. 1998)
- Sidwell v. State, 964 P.2d 416, 420 (Wyo. 1998)
- Rudolph v. State, 829 P.2d 269, 275 (Wyo. 1992)
- Raphael v. State, 994 P.2d 1004, 1009-11 (Alaska 2000)

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