

SUPREME COURT OF FLORIDA

Armstrong v. State

73 So. 3d 155 (Fla. 2011) · No. SC09-1659 · Decided September 22, 2011

SUMMARY

The Supreme Court of Florida reviewed Armstrong’s second direct appeal following a new penalty-phase proceeding and resentencing to death for the murder of a law enforcement officer. The court addressed the admission of blood and photographic evidence, a bullet fragment, jury instructions concerning life imprisonment and credit for time served, cumulative error, and proportionality. The court concluded that Armstrong was not entitled to relief.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per curiam; Chief Justice Canady; Justice Labarga; Justice Lewis; Justice Pariente; Justice Perry; Justice Polston; Justice Quince
JURISDICTION	Florida
DECIDED	September 22, 2011
DOCKET	SC09-1659
DISPOSITION	affirmed
PROCEDURAL POSTURE	Second direct appeal from a capital resentencing following this Court's prior vacatur of Armstrong's death sentence and remand for a new penalty phase.
STANDARD OF REVIEW	Abuse of discretion for admission of evidence and jury instructions; harmless-error review where evidentiary error is alleged; qualitative proportionality review for the death sentence.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Florida
PARTIES	Lancelot Uriley Armstrong v. State of Florida

TOPICS

- sentencing
- evidence
- criminal procedure
- appellate procedure
- harmless error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by admitting photographs of the victim and a vial of the victim's blood during the new penalty phase.
2. Whether the trial court abused its discretion by admitting the remaining bullet fragment after other fragments were missing.
3. Whether the trial court abused its discretion by instructing the jury that Armstrong would receive credit for time served without expressly stating that parole was not guaranteed after twenty-five years.
4. Whether the cumulative effect of the alleged errors required a new penalty phase.
5. Whether the death sentence was proportionate under Florida law.

HOLDINGS

1. The trial court did not abuse its discretion in admitting the crime-scene and autopsy photographs or the vial of Greeney's blood because the evidence was independently relevant to the manner and circumstances of the killing, the identity and status of the victim, Armstrong's involvement, and the aggravating circumstances, and its probative value was not substantially outweighed by unfair prejudice or needless cumulative presentation.
2. The remaining bullet fragment was admissible because Armstrong established a probability of tampering, but the State rebutted that showing by establishing a proper chain of custody and a reasonable explanation for the missing fragment; the record did not show bad-faith destruction of potentially exculpatory evidence.
3. The trial court did not abuse its discretion by answering the jury's question with the instruction that Armstrong would receive credit for time served. The court was not required in every case to add an instruction that parole after twenty-five years was not guaranteed, and the instruction was not confusing, misleading, or contradictory under the circumstances.
4. The cumulative-error claim failed because the individual alleged errors were either without merit or harmless, and the record contained ample independent evidence supporting the aggravating circumstances and death recommendation.
5. Armstrong's death sentence was proportionate because the case involved a prior violent felony aggravator, a robbery aggravator, and the murder of a law-enforcement officer, each given great weight, with only scant mitigation.

KEY QUOTATIONS

"It is well-established that the harmless error test 'is not a sufficiency-of-the-evidence, a correct result, a not clearly wrong, a substantial evidence, a more probable than not, a clear and convincing, or even an overwhelming evidence test' but the 'focus is on the effect of the error on the trier-of-fact.'" (171)

“[U]nless a criminal defendant can show bad faith by the police on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.” (172)

“This entails ‘a qualitative review by this Court of the underlying basis for each aggravator and mitigator rather than a quantitative analysis.’” (175)

FACTUAL BACKGROUND

Armstrong and Michael Coleman robbed a Church's Fried Chicken restaurant in February 1990. When deputies arrived, shots were fired from the restaurant and from the vehicle where Armstrong was located; Deputy John Greeney was killed and Deputy Robert Sallustio was shot. Ballistics, blood, and other evidence connected Armstrong to the shooting, although Armstrong argued during resentencing that Coleman was the shooter and that Armstrong's involvement was minor or compelled. The resentencing court found three aggravating circumstances, one statutory mitigator, and one nonstatutory mitigator before imposing death.

PROCEDURAL HISTORY

Armstrong was convicted of first-degree murder, attempted murder, and armed robbery and received a death sentence. The Florida Supreme Court affirmed on direct appeal, but later vacated the death sentence because one prior-violent-felony aggravator had been invalidated and remanded for a new penalty phase. After a new penalty phase, the jury again recommended death by a nine-to-three vote, and the trial court imposed death for the murder and consecutive life sentences for the other offenses. The Florida Supreme Court affirmed the resentencing judgment and rejected Armstrong's evidentiary, jury-instruction, cumulative-error, and proportionality claims.

DISPOSITION

affirmed

CASES CITED

- Armstrong v. State, 642 So. 2d 730 (Fla. 1994)
- Armstrong v. State, 862 So. 2d 705 (Fla. 2003)
- Johnson v. Mississippi, 486 U.S. 578 (1988)
- Davis v. State, 859 So. 2d 465, 477 (Fla. 2003)
- Mansfield v. State, 758 So. 2d 636, 648 (Fla. 2000)
- Czubak v. State, 570 So. 2d 925, 928 (Fla. 1990)
- Hertz v. State, 803 So. 2d 629, 641 (Fla. 2001)
- Dyken v. State, 89 So. 2d 866, 867 (Fla. 1956)
- Ault v. State, 53 So. 3d 175, 198-99 (Fla. 2010)
- Bush v. State, 461 So. 2d 936, 939 (Fla. 1985)
- Larkins v. State, 655 So. 2d 95, 98 (Fla. 1995)
- Brooks v. State, 787 So. 2d 765, 781 (Fla. 2001)

- Harris v. State, 843 So. 2d 856, 864 (Fla. 2003)
- Almeida v. State, 748 So. 2d 922, 929-30, 933 (Fla. 1999)
- McWatters v. State, 36 So. 3d 613, 637 (Fla. 2010)
- Zamora v. State, 361 So. 2d 776, 783 (Fla. 3d DCA 1978)
- Philmore v. State, 820 So. 2d 919, 931 (Fla. 2002)
- McDuffie v. State, 970 So. 2d 312, 328 (Fla. 2007)
- State v. DiGuilio, 491 So. 2d 1129, 1135, 1138-39 (Fla. 1986)
- Ray v. State, 755 So. 2d 604, 610 (Fla. 2000)
- Zack v. State, 753 So. 2d 9, 25 (Fla. 2000)
- Bonifay v. State, 680 So. 2d 413, 419 (Fla. 1996)
- Teffeteller v. State, 495 So. 2d 744 (Fla. 1986)
- Murray v. State, 3 So. 3d 1108 (Fla. 2009)
- Dodd v. State, 537 So. 2d 626, 627 (Fla. 3d DCA 1988)
- Green v. State, 907 So. 2d 489, 497-98 (Fla. 2005)
- Perriman v. State, 731 So. 2d 1243, 1246 (Fla. 1999)
- White v. State, 817 So. 2d 799, 806 (Fla. 2002)
- Downs v. State, 572 So. 2d 895, 900 (Fla. 1990)
- Gore v. State, 706 So. 2d 1328, 1332-33 (Fla. 1997)
- Waterhouse v. State, 596 So. 2d 1008, 1015 (Fla. 1992)
- Hitchcock v. State, 673 So. 2d 859, 863 (Fla. 1996)
- Israel v. State, 985 So. 2d 510, 520 (Fla. 2008)
- Parker v. State, 904 So. 2d 370, 380 (Fla. 2005)
- Simmons v. State, 934 So. 2d 1100, 1122 (Fla. 2006)
- Urbin v. State, 714 So. 2d 411, 416-17 (Fla. 1998)
- Bevel v. State, 983 So. 2d 505, 524 (Fla. 2008)
- Ferrell v. State, 680 So. 2d 390 (Fla. 1996)
- Lindsey v. State, 636 So. 2d 1327, 1329 (Fla. 1994)
- Sireci v. Moore, 825 So. 2d 882, 887 (Fla. 2002)
- Wheeler v. State, 4 So. 3d 599, 603 (Fla. 2009)