

SUPREME COURT OF FLORIDA

Rafael Andres v. State of Florida

254 So. 3d 283 (Fla. 2018) · No. SC15-1095 · Decided September 20, 2018

SUMMARY

The Supreme Court of Florida affirmed Rafael Andres's convictions for first-degree murder and related offenses arising from the killing of Ivette Farinas. The court vacated his death sentence and remanded for a new penalty phase because it could not conclude that the Hurst error was harmless beyond a reasonable doubt. The court rejected or declined to reach various guilt-phase and penalty-phase claims, including claims concerning discovery, hearsay, cross-examination, and a cell-site simulator search.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Lewis; Quince; Labarga; Lawson; Pariente; Canady; Polston
JURISDICTION	Florida
DECIDED	September 20, 2018
DOCKET	SC15-1095
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from convictions for first-degree murder, armed burglary with assault or battery, first-degree arson, and armed robbery, and from a death sentence imposed after a nonunanimous jury recommendation.
STANDARD OF REVIEW	Discovery-violation determinations and rulings on closing-argument comments were reviewed for abuse of discretion; admission of evidence was reviewed for abuse of discretion; Confrontation Clause evidentiary rulings were reviewed de novo; expert-testimony admission was reviewed for abuse of discretion; preserved errors were evaluated for harmlessness beyond a reasonable doubt; sufficiency of the evidence was reviewed under whether a rational trier of fact could find the elements beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Florida; majority holdings are binding in Florida.
PARTIES	Rafael Andres v. State of Florida

TOPICS

sentencing criminal procedure suppression of evidence evidence appellate procedure

PRACTICE AREAS

criminal law capital punishment criminal procedure evidence appellate practice

QUESTIONS PRESENTED

1. Whether the State violated discovery obligations by failing to disclose a material change in Alberto Ruiz's deposition testimony and whether the trial court was required to conduct a Richardson hearing.
2. Whether challenged hearsay and Confrontation Clause evidence concerning the investigation of Ruiz and the identity and death of Juan Baccalau was properly admitted.
3. Whether the trial court improperly limited cross-examination of Jose Perez, Lisbeth Farinas, and Alberto Ruiz.
4. Whether evidence obtained through use of a cell-site simulator was subject to suppression.
5. Whether the State improperly elicited expert testimony through hypothetical questions outside the medical examiner's expertise.
6. Whether prosecutorial comments during guilt-phase closing argument improperly shifted the burden, denigrated the defense, misstated the law, or were inflammatory, and whether cumulative error required a new trial.
7. Whether the evidence was sufficient to support the first-degree murder conviction.
8. Whether the death sentence violated *Hurst v. Florida* and *Hurst v. State* and, if so, whether the error was harmless beyond a reasonable doubt.

HOLDINGS

1. The trial court did not abuse its discretion in treating Ruiz's changed trial testimony as a clarification rather than a material change requiring a full Richardson hearing. Even assuming a discovery violation, the record showed no reasonable possibility of procedural prejudice.
2. The challenged testimony concerning the investigation of Ruiz was admissible in the circumstances presented because the defense opened the door by suggesting that officers had failed to investigate Ruiz. There was no Confrontation Clause violation from testimony concerning Baccalau because none of Baccalau's statements was admitted against Andres, and the challenged testimony was based on personal observation or the limited purpose of showing that Baccalau was deceased.
3. The trial court's limitations on cross-examination did not warrant relief. Any error concerning Perez was harmless beyond a reasonable doubt; the limitation concerning Farinas was not an abuse of discretion; and the limitation concerning Ruiz reflected a strategic choice by the defense.
4. The trial court properly denied suppression of the photographs and DNA obtained from Andres. Unlike the circumstances in *Tracey*, officers possessed a probable-cause warrant authorizing the seizure and search of Andres's body, home, and van, and the evidence fell within the warrant's scope. Alternatively,

the exclusionary rule would not apply because the officers acted in objectively reasonable reliance on then-binding precedent and the evidence would ultimately have been discovered.

5. Competent, substantial evidence supported Andres's first-degree murder conviction.
6. The Hurst error was not harmless beyond a reasonable doubt because the jury recommended death by a nonunanimous vote of nine to three, and the court could not determine why the dissenting jurors rejected a death sentence. The death sentence therefore had to be vacated and a new penalty phase ordered.

KEY QUOTATIONS

"This Court cannot determine whether these jurors did not find that sufficient aggravating factors were proven to impose a sentence of death, that the aggravation did not outweigh the mitigation, or, for some other reason, determined that death was not an appropriate sentence." (254 So. 3d at 303-04)

FACTUAL BACKGROUND

Andres was hired to perform renovation work at a Miami efficiency apartment occupied by Ivette Farinas and had access to the property. On the day Farinas was murdered, a neighbor saw Andres entering and leaving the efficiency carrying a red container shortly before a fire began; Farinas died from stab wounds and ligature strangulation before the fire was started. Investigators found a mixture of Farinas's and Andres's DNA on a bloody dishcloth near the body, and later saw Andres use Farinas's debit card. Andres did not return to scheduled work, failed to meet police as agreed, and was later located after police obtained a warrant to search his body, home, and van.

PROCEDURAL HISTORY

A Miami-Dade County jury convicted Andres of all charged offenses and recommended death by a nine-to-three vote. The trial court imposed a death sentence. On direct appeal, the Supreme Court of Florida affirmed the first-degree murder conviction but vacated the death sentence under *Hurst v. State* and remanded for a new penalty phase.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the death sentence and conduct a new penalty phase. The first-degree murder conviction is affirmed.

CASES CITED

- *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), cert. denied, 137 S. Ct. 2161 (2017)
- *Hurst v. Florida*, 136 S. Ct. 616 (2016)
- *State v. Evans*, 770 So. 2d 1174 (Fla. 2000)
- *Scipio v. State*, 928 So. 2d 1138 (Fla. 2006)
- *Richardson v. State*, 246 So. 2d 771 (Fla. 1971)

- State v. Schopp, 653 So. 2d 1016 (Fla. 1995)
- Smith v. State, 7 So. 3d 473 (Fla. 2009)
- Knight v. State, 76 So. 3d 879 (Fla. 2011)
- Hayward v. State, 183 So. 3d 286 (Fla. 2015)
- Penalver v. State, 926 So. 2d 1118 (Fla. 2006)
- Crawford v. Washington, 541 U.S. 36 (2004)
- McWatters v. State, 36 So. 3d 613 (Fla. 2010)
- Gosciminski v. State, 132 So. 3d 678 (Fla. 2013)
- Delaware v. Van Arsdall, 475 U.S. 673 (1986)
- Moore v. State, 701 So. 2d 545 (Fla. 1997)
- Tracey v. State, 152 So. 3d 504 (Fla. 2014)
- Davis v. United States, 564 U.S. 229 (2011)
- Fitzpatrick v. State, 900 So. 2d 495 (Fla. 2005)
- Carpenter v. United States, Carpenter v. United States, 138 S. Ct. 2206 (2018)
- Evans v. State, 808 So. 2d 92 (Fla. 2001)
- Calloway v. State, 210 So. 3d 1160 (Fla. 2017)
- Cardona v. State, 185 So. 3d 514 (Fla. 2016)
- State v. DiGuilio, 491 So. 2d 1129 (Fla. 1986)
- Gore v. State, 719 So. 2d 1197 (Fla. 1998)
- Jones v. State, 963 So. 2d 180 (Fla. 2007)
- Orme v. State, 677 So. 2d 258 (Fla. 1996)
- State v. Law, 559 So. 2d 187 (Fla. 1990)