

SUPREME COURT OF WISCONSIN

Blitstein v. State

218 Wis. 356 (1935) · Decided June 4, 1935

SUMMARY

The Wisconsin Supreme Court affirmed the judgment against the defendant, holding that counsel’s inexperience and alleged trial errors did not deprive the defendant of a substantial right or warrant a new trial. The court concluded that the insanity plea was properly withdrawn, the evidence supported the homicide conviction, and the identified omissions by counsel did not prejudice the defense.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Fairchild; Feitz; Nelson
JURISDICTION	Wisconsin
DECIDED	June 4, 1935
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant sought a new trial, arguing that the inexperience and alleged failures of court-appointed defense counsel cumulatively deprived him of a fair trial and substantial rights. The trial court denied the motion, and the defendant sought review in the Wisconsin Supreme Court.
STANDARD OF REVIEW	The court reviewed whether the alleged deficiencies of appointed counsel deprived the defendant of a substantial right warranting a new trial, while considering whether the evidence supported the verdict and whether the claimed errors prejudiced the defense.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion
PARTIES	Blitstein v. State

TOPICS

- ineffective assistance
- criminal procedure
- mens rea

PRACTICE AREAS

- criminal procedure
- criminal defense
- ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the inexperience and alleged mistakes of court-appointed defense counsel, considered cumulatively, deprived the defendant of a substantial right and required a new trial.
2. Whether withdrawal of the insanity plea constituted prejudicial incompetence when the evidence convincingly established the defendant's sanity and legal responsibility.
3. Whether counsel's failure to examine character witnesses, introduce evidence of insanity among the defendant's relatives, challenge the waiver of a preliminary examination, or spend more time selecting the jury prejudiced the defendant's case.

HOLDINGS

1. Inexperience of court-appointed counsel, standing alone, is not grounds for a new trial. A new trial requires a convincing showing that counsel's acts or omissions deprived the defendant of a substantial right.
2. Withdrawal of the insanity plea did not deprive the defendant of a substantial right because convincing medical evidence established his sanity and legal responsibility, leaving no substantial factual controversy on that issue.
3. Failure to examine character witnesses, introduce evidence concerning insanity among the defendant's relatives, contest the waiver of a preliminary examination, or devote more time to jury selection did not constitute reversible error because none of the omissions, individually or cumulatively, prejudiced the defendant's case.

KEY QUOTATIONS

"Inexperience in a relation of this character is of itself no ground for a new trial." (218 Wis. at 359)

"There must be a resulting deprivation of a substantial right." (218 Wis. at 359)

"A poor defense of a person charged with a crime will not justify a reversal of the judgment." (218 Wis. at 361)

"The possibility that had greater skill been employed it might have induced a finding of a lesser degree of crime than an exact measure of the evidence warranted, or the probability that by some art of persuasion there might have been secured an advantage to which the defendant was not legally strictly entitled, as a matter of law, cannot be varied or transformed into a lost substantial right." (218 Wis. at 361)

FACTUAL BACKGROUND

Blitstein quarreled with his wife for several hours, then seized an iron bar while she was apparently fleeing, struck her, and inflicted additional wounds after she fell. He surrendered at the police station. An insanity plea was entered and later withdrawn after court-appointed physicians testified that he was sane, not feeble-minded, and legally responsible for his conduct. The record also reflected that counsel did not examine certain character witnesses, did not introduce evidence that close relatives were insane, waived a preliminary examination, and used limited time selecting the jury.

PROCEDURAL HISTORY

After a criminal trial resulting in a judgment against Blitstein, defense counsel moved for a new trial based on alleged deficiencies by appointed counsel, including withdrawal of an insanity plea, waiver of a preliminary examination, failure to present certain character and family-history evidence, and abbreviated jury selection. The trial court denied the motion, finding that the insanity issue had been adequately presented, that the defendant was legally responsible, and that no material right had been impaired. The Wisconsin Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Schulman, 299 Ill. 125, 132 N.E. 530
- State v. Barr, 123 Iowa 139, 98 N.W. 595
- People v. Gardiner, 303 Ill. 204, 135 N.E. 422
- State v. Jukich, 49 Nev. 217, 242 P. 590