

SUPREME COURT OF DELAWARE

Grantham v. State

994 A.2d 744 (Del. 2010) · No. No. 516, 2009 · Decided May 10, 2010

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's judgment in Victor Grantham's direct appeal from his second-degree murder conviction and sentence. The court rejected his claims concerning access to and review of the presentence report and allegedly improper prosecutorial comments at sentencing, finding no plain error or other arguably appealable issue.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Myron T. Steele, Chief Justice; Henry duPont Ridgely, Justice; Thomas L. Holland, Justice
JURISDICTION	Delaware
DECIDED	May 10, 2010
DOCKET	No. 516, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a guilty plea and sentence for second-degree murder; appellate counsel filed an Anders/Rule 26(c) brief and motion to withdraw, and the State moved to affirm.
STANDARD OF REVIEW	Under Delaware Supreme Court Rule 26(c), the court determines whether counsel conscientiously examined the record and law for arguably appealable claims and independently reviews the record to determine whether the appeal is wholly devoid of at least arguably appealable issues. Claims not presented to the Superior Court are reviewed for plain error.
PRECEDENTIAL VALUE	published opinion
PARTIES	Victor Grantham v. State of Delaware

TOPICS

- appellate procedure
- standard of review
- preservation of error
- sentencing
- criminal procedure

PRACTICE AREAS

criminal appellate procedure

sentencing

criminal procedure

QUESTIONS PRESENTED

1. Whether Grantham demonstrated plain error because he and his counsel allegedly lacked an opportunity to review and comment on the presentence report before sentencing.
2. Whether allegedly unfair prosecutorial comments at sentencing constituted plain error and caused the sentencing judge to impose a more severe sentence.
3. Whether the Rule 26(c) appeal was wholly without merit and devoid of any arguably appealable issue.

HOLDINGS

1. Grantham failed to demonstrate any error, much less plain error, concerning access to or review of the presentence report before sentencing.
2. The prosecutor's pointed but accurate and proper comments at sentencing did not constitute plain error.
3. The appeal was wholly without merit and devoid of any arguably appealable issues; the State's motion to affirm was granted and the Superior Court's judgment was affirmed.

KEY QUOTATIONS

“The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold” (¶ 2)

“The sentencing judge commits error only when he or she relies upon inaccurate or unreliable information.” (¶ 9)

“The Court has reviewed the record carefully and has concluded that Grantham's appeal is wholly without merit and devoid of any arguably appealable issues.” (¶ 10)

FACTUAL BACKGROUND

Grantham pleaded guilty to second-degree murder arising from a shooting in Wilmington in which a bullet struck and mortally wounded Annibel Ramirez, an innocent bystander. At the time, Grantham was on probation for carjacking and was prohibited from possessing a handgun. The sentencing court considered the seriousness and impact of the crime, Grantham's prior record and probationary status, lack of remorse, lack of amenability to lesser punishment, and need for correctional treatment.

PROCEDURAL HISTORY

Grantham pleaded guilty to second-degree murder in exchange for dismissal of six additional felony charges. The Superior Court sentenced him to 50 years at Level V, suspended after 30 years, followed by 10 years at Level III probation, and later resentenced him to the same sentence to permit a timely appeal. On direct appeal, Grantham raised claims concerning access to the presentence report and prosecutorial comments at sentencing. The Supreme Court reviewed the unpreserved claims for plain error, granted the State's motion to affirm, affirmed the judgment, and found counsel's withdrawal motion moot.

DISPOSITION

affirmed

CASES CITED

- Penson v. Ohio, 488 U.S. 75, 83 (1988)
- McCoy v. Court of Appeals of Wisconsin, 486 U.S. 429, 442 (1988)
- Anders v. California, 386 U.S. 738, 744 (1967)
- Wainwright v. State, 504 A.2d 1096, 1100 (Del. 1986)
- Eaddy v. State, 1996 WL 313499 (Del. Supr.)
- Mayes v. State, 604 A.2d 839, 842 (Del. 1992)

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