

SUPREME COURT OF SOUTH DAKOTA

State v. Boston

665 N.W.2d 100 (S.D. 2003) · No. No. 22439 · Decided June 11, 2003

SUMMARY

The Supreme Court of South Dakota affirmed Samuel Wayne Boston's conviction for second-degree felony murder and life sentence without parole arising from the death of Richard Gitter. The court held that sufficient circumstantial evidence supported the conviction and rejected challenges involving evidence of Boston's sexual orientation, alleged nondisclosure of exculpatory evidence, exclusion of psychiatric history, prosecutorial misconduct, and an alleged compromise verdict.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Sabers, Justice; Gilbertson, Chief Justice; Konenkamp, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	June 11, 2003
DOCKET	No. 22439
DISPOSITION	affirmed
PROCEDURAL POSTURE	Boston appealed his conviction for second-degree felony murder and life sentence without parole, challenging the denial of motions for judgment of acquittal, evidentiary rulings, and denial of motions for a new trial.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by determining whether the evidence, viewed with the most favorable reasonable inferences supporting the verdict, could allow a reasonable factfinder to find guilt beyond a reasonable doubt; evidentiary rulings and denials of a new trial are reviewed for abuse of discretion. Unpreserved claims are waived.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of South Dakota.
PARTIES	Samuel Wayne Boston v. State of South Dakota

TOPICS

criminal procedure

evidence

standard of review

preservation of error

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PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Boston's conviction for second-degree felony murder.
2. Whether the trial court abused its discretion by admitting evidence concerning Boston's sexual orientation and prior statements about it.
3. Whether the trial court abused its discretion by denying a new trial based on alleged nondisclosure of photographs and an Army officer's interview.
4. Whether the trial court abused its discretion by excluding Boston's psychiatric and psychological history.
5. Whether the trial court abused its discretion by denying a new trial based on alleged prosecutorial misconduct and an alleged compromise verdict.

HOLDINGS

1. The evidence was sufficient to sustain Boston's conviction for second-degree felony murder because the jury could reasonably find that Gitter died from manual strangulation and that Boston engaged in or attempted sexual contact with him while he was incapable of consenting.
2. The trial court did not abuse its discretion by admitting testimony that Boston had previously described himself as bisexual and later described himself as heterosexual, where the evidence was used to impeach his statement to the investigating officer.
3. The trial court properly denied a new trial based on the alleged nondisclosure of photographs and an Army officer's interview because Boston failed to establish that the evidence would probably produce an acquittal and, as to the photographs, failed to show that he could not have discovered them through due diligence.
4. The trial court did not abuse its discretion by excluding Boston's psychiatric and psychological history because Boston made no adequate offer of proof and failed to show that the evidence was relevant, particularly after withdrawing his insanity plea and not claiming that mental illness prevented him from forming the required intent.
5. The trial court properly denied a new trial based on the prosecutor's closing argument, display of photographs of the victim's family, and the jury's note criticizing the State's evidence because Boston failed to preserve the misconduct claims and the note did not establish a compromise verdict.

KEY QUOTATIONS

"The question is 'whether there is sufficient evidence in the record which, if believed by the jury, is sufficient to sustain a finding of guilt beyond a reasonable doubt; in making this determination, the Court will accept the evidence, and the most favorable inference fairly drawn therefrom, which will support the verdict.'" (665 N.W.2d at 103)

“This note alone is insufficient to establish there was a compromise verdict, particularly considering that the jury was polled and each juror affirmed the verdict.” (665 N.W.2d at 109)

FACTUAL BACKGROUND

Samuel Wayne Boston called 911 after finding Richard Gitter unconscious and unclothed in Boston's bathtub. Gitter had a head laceration, knee injuries, and had died from manual strangulation according to the State's pathologist. Police found blood-stained clothing and other items in Boston's apartment, photographs of Gitter's unclothed body focused primarily on his buttocks, and evidence that Boston had washed clothing and removed pornographic material before police arrived. Boston gave changing accounts of how Gitter was injured and convicted of felony murder predicated on sexual contact or attempted sexual contact with a person incapable of consenting.

PROCEDURAL HISTORY

Boston was convicted on May 5, 2002, of second-degree felony murder based on murder committed while engaging in or attempting sexual contact with a person incapable of consenting. The trial court sentenced him to life imprisonment without parole. The Supreme Court of South Dakota affirmed the conviction and sentence.

DISPOSITION

affirmed

CASES CITED

- State v. Gonzalez, 2001 SD 47, 624 N.W.2d 836
- State v. Heftel, 513 N.W.2d 397 (S.D. 1994)
- State v. Arguello, 502 N.W.2d 548 (S.D. 1993)
- Belhassen v. John Morrell & Co., 2000 SD 82, 613 N.W.2d 531
- Kester v. Colonial Manor of Custer, 1997 SD 127, 571 N.W.2d 376
- State v. Frazier, 2001 SD 19, 622 N.W.2d 246
- State v. Goodroad, 1997 SD 46, 563 N.W.2d 126
- State v. Oster, 495 N.W.2d 305 (S.D. 1993)
- State ex rel. Department of Transportation v. Spiry, 1996 SD 14, 543 N.W.2d 260
- Shaffer v. Honeywell, Inc., 249 N.W.2d 251 (S.D. 1976)
- State v. Rufener, 392 N.W.2d 424 (S.D. 1986)
- State v. Andrews, 2001 SD 31, 623 N.W.2d 78
- State v. Corey, 2001 SD 53, 624 N.W.2d 841
- State v. Gehm, 1999 SD 82, 600 N.W.2d 535
- State v. Phillips, 489 N.W.2d 613 (S.D. 1992)