

SUPREME COURT OF NORTH DAKOTA

State v. Beciraj

2003 ND 171, 670 N.W.2d 855 · No. No. 20030030 · Decided November 13, 2003

SUMMARY

The Supreme Court of North Dakota affirmed Sadik Beciraj's conviction for conspiracy to commit arson. The court held that the prosecutor's closing-argument comments concerning a prior fire did not constitute obvious error because they were based on evidence admitted at trial. The court also concluded that the prior-fire evidence was properly admitted under North Dakota Rules of Evidence 404(b) and 403 to show knowledge or motive.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Maring, Justice; Gerald W. Vande Walle, C.J.; William A. Neumann; Dale V. Sandstrom; Carol Ronning Kapsner
JURISDICTION	North Dakota
DECIDED	November 13, 2003
DOCKET	No. 20030030
DISPOSITION	affirmed
PROCEDURAL POSTURE	Beciraj appealed a criminal judgment entered on a jury verdict finding him guilty of conspiracy to commit arson.
STANDARD OF REVIEW	Unpreserved claims of error are reviewed under N.D.R.Crim.P. 52(b)'s obvious-error standard, requiring proof of an error that is plain and affects substantial rights. Prosecutorial comments in closing argument are generally reviewed for clear abuse of discretion. Admission of evidence under Rules 404(b) and 403 is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Sadik Beciraj v. State of North Dakota

TOPICS

- evidence
- criminal procedure
- prosecutorial misconduct
- preservation of error
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether the State's unobjected-to closing-argument comments about the prior fire constituted obvious error requiring reversal.
2. Whether testimony concerning Beciraj's receipt of Red Cross and community donations after a prior fire was admissible under N.D.R.Ev. 404(b) and 403.

HOLDINGS

1. The State's comments did not constitute obvious error because they referred only to evidence admitted at trial and did not add facts outside the evidentiary record.
2. The trial court properly admitted the testimony that Beciraj had received Red Cross and community money after a previous fire because it was relevant to show knowledge and financial motive, and its probative value was not substantially outweighed by unfair prejudice.

KEY QUOTATIONS

"Under Olano, before an appellate court may notice a claimed error that was not brought to the attention of a trial court, the appellant must prove "(1) an error, (2) that is plain, and (3) affects substantial rights." (670 N.W.2d 858; ¶ 8)

"During closing argument, the party may refer to any evidence admitted at trial." (670 N.W.2d 858; ¶ 10)

"Rule 404(b) "does not authorize automatic admission merely because the proponent advances a proper purpose for the evidence; instead, the relevance and probative value of the evidence must be demonstrated." (670 N.W.2d 858; ¶ 12)

FACTUAL BACKGROUND

A fire broke out in Beciraj's Fargo trailer in January 2001 while Beciraj and his wife were away. Investigators found suspicious circumstances, including nearly empty closets, empty hangers, and missing pictures. During the investigation, Beciraj immediately asked where money from the Red Cross and community donations would be held, explaining that he had received such funds after a previous house fire. The State used this testimony to argue that Beciraj knew he could receive money from another fire and therefore had a financial motive to conspire to commit arson.

PROCEDURAL HISTORY

After a fire destroyed Beciraj's Fargo trailer, he was charged by information with conspiracy to commit arson. The trial court denied his motion in limine concerning evidence of a prior fire, admitted portions of testimony about that fire, and the jury found him guilty. The court sentenced him to three years' imprisonment, with two years and 305 days suspended for three years of supervised probation. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. McClean, 1998 ND 21, ¶ 9, 575 N.W.2d 200
- United States v. Olano, 507 U.S. 725, 113 S. Ct. 1770, 123 L. Ed. 2d 508 (1993)
- State v. Olander, 1998 ND 50, ¶ 14, 575 N.W.2d 658
- State v. Thiel, 411 N.W.2d 66, 71 (N.D. 1987)
- State v. Osier, 1997 ND 170, ¶ 4, 569 N.W.2d 441
- State v. Christensen, 1997 ND 57, ¶ 7, 561 N.W.2d 631