

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Walczak

463 Mass. 808 (2012) · Decided December 12, 2012

SUMMARY

The Massachusetts Supreme Judicial Court affirmed the dismissal of a second-degree murder indictment against a juvenile defendant. Although the court unanimously concluded that the evidence before the grand jury supported the indictment, a majority held that the prosecutor was required to instruct the grand jury on the elements of murder and the significance of substantial mitigating circumstances or defenses. The court established this instruction requirement for future cases involving juvenile murder indictments and substantial evidence of mitigating circumstances or defenses.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	By the Court; Chief Justice Ireland; Justice Cordy; Justice Spina; Justice Botsford; Justice Gants; Justice Lenk; Justice Duffly
JURISDICTION	Massachusetts
DECIDED	December 12, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Commonwealth appealed from a Superior Court order dismissing an indictment charging the defendant with murder in the second degree. The Supreme Judicial Court granted the defendant's application for direct appellate review.
STANDARD OF REVIEW	The sufficiency of evidence supporting a grand jury indictment is reviewed under the standard stated in Commonwealth v. McCarthy, 385 Mass. 160 (1982).
PRECEDENTIAL VALUE	Published opinion; binding Massachusetts Supreme Judicial Court precedent.
PARTIES	Commonwealth v. Walczak

TOPICS

- grand jury
- jury instructions
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

grand jury

jury instructions

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence presented to the grand jury was sufficient to support an indictment charging murder in the second degree.
2. Whether, when substantial evidence of mitigating circumstances or defenses is presented to a grand jury in a juvenile murder case, the prosecutor must instruct the grand jury on the elements of murder and the legal significance of those circumstances or defenses.

HOLDINGS

1. The evidence before the grand jury supported the indictment charging the defendant with murder in the second degree.
2. In future cases in which the Commonwealth seeks to indict a juvenile for murder and substantial evidence of mitigating circumstances or defenses, other than lack of criminal responsibility, is presented to the grand jury, the prosecutor must instruct the grand jury on the elements of murder and on the significance of those mitigating circumstances and defenses.
3. The prosecutor's instructions to the grand jury on the elements of murder and the significance of mitigating circumstances and defenses must be transcribed as part of the transcription of the grand jury proceedings.

KEY QUOTATIONS

“In future cases, where the Commonwealth seeks to indict a juvenile for murder and where there is substantial evidence of mitigating circumstances or defenses (other than lack of criminal responsibility) presented to the grand jury, the prosecutor shall instruct the grand jury on the elements of murder and on the significance of the mitigating circumstances and defenses.” (810)

“The instructions are to be transcribed as part of the transcription of the grand jury proceedings.” (810)

FACTUAL BACKGROUND

The defendant was sixteen years old when he stabbed Rene Valdez during an altercation that began when Valdez and an accomplice attempted to rob him. Evidence concerning the attempted robbery and the surrounding altercation raised mitigating circumstances or defenses relevant to the murder charge.

PROCEDURAL HISTORY

A Superior Court judge dismissed the murder indictment, concluding that the evidence presented to the grand jury was insufficient to support a charge of murder in the second degree. The Supreme Judicial Court held that the evidence did support the indictment but affirmed the dismissal on the alternative ground that the grand jury was not instructed on the elements of murder and the significance of mitigating circumstances and defenses raised by the evidence.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. McCarthy, 385 Mass. 160 (1982)

OPINION

Commonwealth v. Walczak

463 Mass. 808

PER CURIAM.

By the Court. The Commonwealth appeals from an order of a judge in the Superior Court dismissing an indictment that charged the defendant with murder in the second degree. There was evidence before the grand jury that the defendant, who was sixteen years old at the time of the offense, stabbed the victim, Rene Valdez, in an altercation that began when the victim and an accomplice attempted to rob the defendant. The judge dismissed the indictment on the ground that the Commonwealth had presented insufficient evidence to the grand jury to support an indictment of murder in the second degree. See *Commonwealth v. McCarthy*, 385 Mass. 160 (1982). We granted the defendant's application for direct appellate review and now affirm the order dismissing the indictment. The court unanimously agrees with the Commonwealth, contrary to the Superior Court judge's ruling, that the evidence before the grand jury supported the indictment for murder in the second degree. On this point, all Justices agree with the reasoning set forth in part 3.b of Justice Lenk's concurring opinion, post at 817-822 (Lenk, J., concurring). Four Justices also agree with the defendant, however, that there is an alternative basis on which to uphold the judge's order: namely, that the grand jury should have been, but were not, instructed by the prosecutor on the elements of murder and on the legal significance of the mitigating circumstances raised by the evidence. The Justices who subscribe to this result do so for differing reasons. As reflected in her opinion, Justice Lenk is of the view that, in any case where the Commonwealth seeks to indict a juvenile for murder, the grand jury must be properly instructed by the prosecutor on the elements of murder, and if there are mitigating circumstances and defenses (other than lack of criminal responsibility) raised by the evidence, the grand jury must be instructed as to those as well. As explained in his opinion, Justice Gants, joined by Justices Botsford and *810Duffly, would hold that in cases where the Commonwealth seeks an indictment for murder and there is substantial evidence before the grand jury of mitigating circumstances or defenses (other than lack of criminal responsibility) — evidence sufficiently strong that the integrity of the grand jury would be impaired if it were withheld — the grand jury must be instructed on the elements of murder and on the mitigating circumstances and defenses, regardless of whether the subject of the grand jury's investigation is a juvenile or an adult. Post at 837 (Gants, J., concurring). Three Justices, Justice

Spina, joined by Chief Justice Ireland and Justice Cordy, do not agree with the alternative basis for upholding the order dismissing the indictment. They do not subscribe to the view that instructions to the grand jury on mitigating circumstances and defenses were necessary in this case, and they would make no change in the existing law concerning grand jury procedure in cases such as this. These Justices would vacate the order dismissing the indictment and remand the case to the trial court for further proceedings. Post at 844 (Spina, J., concurring in part and dissenting in part). By a majority of the court, therefore, the order dismissing the indictment is affirmed. In future cases, where the Commonwealth seeks to indict a juvenile for murder and where there is substantial evidence of mitigating circumstances or defenses (other than lack of criminal responsibility) presented to the grand jury, the prosecutor shall instruct the grand jury on the elements of murder and on the significance of the mitigating circumstances and defenses. The instructions are to be transcribed as part of the transcription of the grand jury proceedings. So ordered.