

SUPREME COURT OF MISSOURI

State of Missouri v. Denford Jackson

433 S.W.3d 424 (Mo. banc 2014) · No. SC93108 · Decided June 24, 2014

SUMMARY

The Missouri Supreme Court held that a trial court may not refuse a defendant's requested lesser-included-offense instruction solely because the court believes a reasonable jury must accept particular evidence or draw particular inferences. Because the jury could disbelieve evidence supporting the differential element between first- and second-degree robbery, the court erred by refusing the second-degree robbery instruction. The convictions were vacated and the case was remanded.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Paul C. Wilson; Russell, Chief Justice; Fischer, Judge; Teitelman, Judge; Stith, Judge; Breckenridge, Judge; Draper, Judge
JURISDICTION	Missouri
DECIDED	June 24, 2014
DOCKET	SC93108
DISPOSITION	vacated
PROCEDURAL POSTURE	Jackson appealed his convictions for first-degree robbery and armed criminal action after the trial court refused his requested instruction on second-degree robbery, overruled his motion for new trial, and imposed concurrent sentences.
STANDARD OF REVIEW	The Court reviews de novo a trial court's decision whether to give a requested lesser included offense instruction under section 556.046. A failure to give a statutorily required instruction is reversible error; prejudice is presumed when the court fails to give a requested lesser included offense instruction supported by the evidence.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Missouri, decided en banc
PARTIES	Denford Jackson v. State of Missouri

TOPICS

lesser included offense instructions

jury instructions

criminal procedure

statutory interpretation

standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate criminal procedure

QUESTIONS PRESENTED

1. Whether section 556.046 required the trial court to give Jackson's requested instruction on second-degree robbery, a nested lesser included offense of first-degree robbery, when the differential element was one on which the State bore the burden of proof.
2. Whether a trial court may refuse a requested nested lesser included offense instruction based solely on its conclusion that no reasonable juror could disbelieve the State's evidence or refuse to draw an inference establishing the differential element.
3. Whether the judgment of armed criminal action also had to be vacated because that conviction was predicated on the first-degree robbery conviction.

HOLDINGS

1. When a defendant timely requests an instruction on a nested lesser included offense consisting of a subset of the elements of the charged offense, the trial court must give the instruction when the differential element is one on which the State bears the burden of proof. The jury's ability to disbelieve all or part of the evidence, or to refuse to draw a necessary inference, itself supplies a basis in the evidence for acquitting on the greater offense and convicting on the nested lesser offense.
2. The trial court erred by refusing to instruct on second-degree robbery based on its view that no reasonable juror could disbelieve the employee's testimony or reject the inference that she reasonably believed Jackson held a gun.
3. The armed criminal action conviction also had to be vacated because the jury's armed criminal action verdict was predicated on its finding that Jackson committed first-degree robbery.
4. The Court did not reach Jackson's claims concerning the sufficiency of the transcript because vacatur and remand were required on the lesser included offense issue.

KEY QUOTATIONS

"The answer, unequivocally, is no." (433 S.W.3d at 424)

"A jury always can disbelieve all or any part of the evidence, just as it always may refuse to draw inferences from that evidence." (433 S.W.3d at 424)

"To put it simply, evidence never proves any element until the jury says it does." (433 S.W.3d at 424)

"When a defendant requests an instruction for a lesser included offense that consists of a subset of the elements of the charged offense, that instruction must be given." (433 S.W.3d at 440)

“No matter how strong, airtight, inescapable, or even absolutely certain the evidence and inferences in support of the differential element may seem to judges and lawyers, no evidence ever proves an element of a criminal case until all 12 jurors believe it, and no inference ever is drawn in a criminal case until all 12 jurors draw it.” (433 S.W.3d at 434)

FACTUAL BACKGROUND

Jackson entered a coffee shop, approached the cash register, forced an employee to give him money, took the employee into the kitchen, and left. The employee testified that Jackson held what she believed to be a revolver against her back, while two customers could not determine whether he had a gun. Surveillance video showed Jackson holding an object against the employee's back, and a detective testified that the object appeared to be a gun. The jury convicted Jackson of first-degree robbery and armed criminal action.

PROCEDURAL HISTORY

A jury convicted Jackson of first-degree robbery and armed criminal action arising from a coffee-shop robbery. The trial court refused to instruct the jury on second-degree robbery, overruled Jackson's motion for new trial, and sentenced him to concurrent terms of 30 years for robbery and 10 years for armed criminal action. The Supreme Court of Missouri held that the refusal to give the requested nested lesser included offense instruction was error, vacated both convictions, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded for further proceedings with both the first-degree robbery and armed criminal action convictions vacated. The Court directed that Jackson receive a new trial before a properly instructed jury.

CASES CITED

- State v. Olson, 636 S.W.2d 318 (Mo. banc 1982)
- State v. Santillan, 948 S.W.2d 574 (Mo. banc 1997)
- State v. Pond, 131 S.W.3d 792 (Mo. banc 2004)
- State v. Williams, 313 S.W.3d 656 (Mo. banc 2010)
- State v. Derenzy, 89 S.W.3d 472 (Mo. banc 2002)
- State v. Redmond, 937 S.W.2d 205 (Mo. banc 1996)
- State v. Mease, 842 S.W.2d 98 (Mo. banc 1992)
- State v. Harris, 620 S.W.2d 349 (Mo. banc 1981)
- State v. Hibler, 5 S.W.3d 147 (Mo. banc 1999)
- State v. Forrest, 183 S.W.3d 218 (Mo. banc 2006)
- McNeal v. State, 412 S.W.3d 886 (Mo. banc 2013)

- State v. Pierce, No. SC93321, ___ S.W.3d ___ (Mo. banc 2014)
- Beck v. Alabama, 447 U.S. 625 (1980)
- Roberts v. Louisiana, 428 U.S. 325 (1976)
- Hopper v. Evans, 456 U.S. 605 (1982)
- Keeble v. United States, 412 U.S. 205 (1973)
- Sansone v. United States, 380 U.S. 343 (1965)
- United States v. Martin Linen Supply Co., 430 U.S. 564 (1977)
- United States v. Gaudin, 515 U.S. 506 (1995)
- Duncan v. State of Louisiana, 391 U.S. 145 (1968)
- State v. McNamara, 110 S.W. 1067 (Mo. 1908)
- State v. Shelby, 64 S.W.2d 269 (Mo. banc 1933)
- Horning v. District of Columbia, 254 U.S. 135 (1920)
- United Brotherhood of Carpenters & Joiners of America v. United States, 330 U.S. 395 (1947)
- United States v. Manuszak, 234 F.2d 421 (3d Cir. 1956)
- United States v. Muse, 83 F.3d 672 (4th Cir. 1996)
- State v. Moore, 435 S.W.2d 8 (Mo. banc 1968)
- State v. Shawley, 67 S.W.2d 74 (Mo. 1933)