

SUPREME COURT OF FLORIDA

James Warmington v. State of Florida

149 So. 3d 648 (Fla. 2014) · No. SC12-1050 · Decided October 16, 2014

SUMMARY

The Florida Supreme Court held that the State impermissibly shifted the burden of proof by eliciting testimony about James Warmington’s failure to produce exculpatory documentation during a pretrial investigation. The court concluded that the error was not harmless beyond a reasonable doubt, quashed the Third District’s decision, and remanded for a new trial. The opinion also addressed conflict jurisdiction under the Florida Constitution and included dissenting opinions disputing jurisdiction and the merits.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Justice Pariente; Chief Justice Labarga; Justice Quince; Justice Lewis; Justice Polston; Justice Canady; Justice Perry
JURISDICTION	Florida
DECIDED	October 16, 2014
DOCKET	SC12-1050
DISPOSITION	quashed
PROCEDURAL POSTURE	The Florida Supreme Court accepted discretionary review based on alleged express and direct conflict with decisions of the Florida Supreme Court and district courts of appeal. The Third District had affirmed Warmington's conviction and denial of his motion for mistrial.
STANDARD OF REVIEW	The court reviewed the burden-shifting error under the harmless-error standard, requiring the State to prove beyond a reasonable doubt that the error did not contribute to the verdict. The court also exercised discretionary conflict jurisdiction under article V, section 3(b)(3), of the Florida Constitution.
PRECEDENTIAL VALUE	Published Florida Supreme Court majority opinion and binding precedent in Florida.
PARTIES	James Warmington v. State of Florida

TOPICS

burden of proof

criminal procedure

harmless error

appellate jurisdiction

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the State impermissibly shifted the burden of proof by eliciting testimony that Warmington failed to produce exculpatory documentation during the pretrial investigation.
2. Whether the burden-shifting error was harmless beyond a reasonable doubt.
3. Whether the Third District's decision expressly and directly conflicted with the cited Florida Supreme Court and district court decisions.

HOLDINGS

1. The State impermissibly shifted the burden of proof by eliciting testimony that Warmington failed to produce exculpatory documentation, because the testimony could have led the jury to believe that he had a legal duty to produce evidence refuting the theft charge.
2. The error was not harmless beyond a reasonable doubt because the State did not establish that there was no reasonable possibility that the testimony contributed to the conviction.

KEY QUOTATIONS

“Taken together, these cases stand for the legal proposition that the State may not elicit testimony at trial that could lead the jury to the erroneous conclusion that the defendant has a duty to produce exculpatory evidence to refute an element of the charged crime.” (149 So. 3d at 654)

“Simply asserting a defense to a crime does not create any issue for which a defendant ‘carries [the] burden of proof.’” (149 So. 3d at 655)

“This chronology conveyed to the jury the distinct impression that Warmington was arrested as a direct result of failing to provide Detective Abolsky with evidence proving his innocence.” (149 So. 3d at 656)

FACTUAL BACKGROUND

Warmington served as an intermediary in a disputed business investment involving Robert and Christine Pistol and Rene Sardina. The State claimed that Warmington received \$150,000 intended to fund a mortgage loan to Sardina and instead stole the money; Warmington claimed the money was an unsecured personal loan to him and Sardina and that nonrepayment did not constitute theft. During the investigation, Detective Stuart Abolsky asked Warmington to produce documentation supporting his explanation, and Warmington could not do so; Abolsky then arrested him. At trial, the State elicited testimony about Warmington's inability to produce the documentation.

PROCEDURAL HISTORY

Warmington was charged with first-degree theft exceeding \$100,000 and was convicted of the lesser-included offense of theft exceeding \$20,000 but less than \$100,000. The trial court denied his motion for mistrial based on alleged burden shifting, sentenced him to community control followed by probation, and ordered restitution. The Third District affirmed, concluding that testimony concerning Warmington's failure to produce documentation during the pretrial investigation concerned historical facts and did not shift the burden of proof. The Florida Supreme Court quashed the Third District's decision and remanded for a new trial.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The case was remanded for a new trial.

CASES CITED

- Jackson v. State, 575 So. 2d 181 (Fla. 1991)
- Gore v. State, 719 So. 2d 1197 (Fla. 1998)
- Hayes v. State, 660 So. 2d 257 (Fla. 1995)
- Ramirez v. State, 1 So. 3d 383 (Fla. 4th DCA 2009)
- Miele v. State, 875 So. 2d 812 (Fla. 2d DCA 2004)
- State v. DiGuilio, 491 So. 2d 1129 (Fla. 1986)
- State v. Cohen, 568 So. 2d 49 (Fla. 1990)
- Herrera v. State, 594 So. 2d 275 (Fla. 1992)
- Evans v. State, 838 So. 2d 1090 (Fla. 2002)
- Ealy v. State, 915 So. 2d 1288 (Fla. 2d DCA 2005)
- Rivera v. State, 840 So. 2d 284 (Fla. 5th DCA 2003)
- Chapman v. California, 386 U.S. 18 (1967)
- H.M. v. State, 802 So. 2d 1185 (Fla. 3d DCA 2002)
- J.W. v. State, 467 So. 2d 796 (Fla. 3d DCA 1985)
- Tomlin v. State, 333 So. 2d 500 (Fla. 2d DCA 1976)
- Harris v. State, 307 So. 2d 218 (Fla. 3d DCA 1974)
- Warmington v. State, 86 So. 3d 1188 (Fla. 3d DCA 2012)