

SUPREME COURT OF LOUISIANA

State v. Harrison

147 So. 3d 161 (La. 2014) · Decided September 10, 2014

SUMMARY

The Louisiana Supreme Court held that a photograph obtained from the defendant’s cell phone was admissible as demonstrative evidence because its probative value in identifying the perpetrator outweighed any potential unfair prejudice. The court found that the district court abused its discretion by failing to properly balance relevance against prejudice, reversed the exclusion of photograph “G-1,” affirmed in all other respects, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam; Johnson, C.J.; Knoll, J.
JURISDICTION	Louisiana
DECIDED	September 10, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought review of a district court ruling excluding photographs obtained from the defendant's cell phone pursuant to a search warrant. The Supreme Court of Louisiana granted the writ in part, reversed the exclusion of photograph G-1, affirmed the ruling in all other respects, and remanded.
STANDARD OF REVIEW	Abuse of discretion for the trial court's evidentiary ruling.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	State v. Harrison

TOPICS

- evidence
- relevance
- standard of review
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Evidence
- Criminal procedure
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by excluding photograph G-1 under Louisiana Evidence Code article 403.
2. Whether photograph G-1 was relevant demonstrative evidence because it could assist the jury in identifying the defendant as the perpetrator.

HOLDINGS

1. The district court abused its discretion by excluding photograph G-1 because its probative value in assisting with identification of the perpetrator outweighed any potential unfair prejudice.

KEY QUOTATIONS

“The test of admissibility is whether the probative value of the photographs outweighs the prejudice which may result from their display to the jury.” (at 162)

“Therefore, in the metaphorical terms of a balancing scale, the district court placed nothing on the side of the balance dedicated to relevance and, instead, placed only conjecture on the side of the balance dedicated to unfair prejudice.” (at 162)

“Having found an abuse of discretion, we reverse the district court’s ruling that the photographic evidence designated as “G-1” must be excluded due to unfair prejudice.” (at 163)

FACTUAL BACKGROUND

The State sought to introduce four photographs obtained from Harrison's cell phone pursuant to a search warrant. Photograph G-1 depicted a male wearing khaki pants, a dark hooded sweatshirt, and a rosary, items that eyewitnesses allegedly described as worn by the perpetrator of the murder and robbery. The district court excluded the photographs, reasoning that G-1 might depict a gang sign or vulgar gesture and could therefore create unfair prejudice.

PROCEDURAL HISTORY

The district court ruled that all photographs obtained from Harrison's cell phone under a search warrant were inadmissible. The State challenged the exclusion of four photographs, arguing that photograph G-1 was admissible because it had circumstantial value in identifying Harrison as the perpetrator. The Supreme Court concluded that the district court abused its discretion as to G-1, affirmed the remaining ruling, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the district court for further proceedings consistent with the opinion. The stay was lifted.

CASES CITED

- State v. Duncan, 99-2615 (La. 10/16/01), 802 So. 2d 533, 555
- State v. Gallow, 338 So. 2d 920, 923 (La. 1976)
- State v. Smith, 327 So. 2d 355 (1976)
- State v. Beach, 320 So. 2d 142 (1975)
- State v. Weatherspoon, 06-539, p. 5 (La. App. 5 Cir. 12/12/06), 948 So. 2d 215, 220

OPINION

PER CURIAM.

PER CURIAM. The district court ruled all photographs obtained from the defendant's cell phone, pursuant to a search warrant, were inadmissible. In this court, the state argues the district court erred in excluding four of the photographs.

We find that, of the four photographs the state seeks to introduce, the district court erred in ruling that the photograph identified as "G-1" could not be admitted into evidence. Photograph "G-1," like the other three photographs the state seeks to introduce into evidence, does not depict the crime scene.

Therefore, photograph "G-1" is considered demonstrative evidence. See State v. Duncan, 99-2615 (La.10/16/01), 802 So.2d 533, 555 ("demonstrative evidence, including photographs, may also be offered for its circumstantial value, i.e., as the basis or an inference beyond those facts which are perceivable."). Photograph "G-1" depicts a male wearing khaki pants, a dark colored hooded sweatshirt, and a rosary.

The inference to be drawn, according to the state, is that this photograph assists in identifying the defendant as the perpetrator. According to the state, several eyewitnesses to the *162murder and robbery described the male perpetrator wearing the very same items of clothing, and a rosary. This court has long held that "[t]he test of admissibility is whether the probative value of the photographs outweighs the prejudice which may result from their display to the jury." State v. Gallow, 338 So.2d 920, 923 (La.1976) (citing State v. Smith, 327 So.2d 355 (1976); State v. Beach, 320 So.2d 142 (1975)).

The relevance of the identity of the perpetrator cannot be overstated. "In addition to proving the statutory elements of the charged offense at trial, the State is required to prove defendant's identity as the perpetrator." State v. Weatherspoon, 06-539, p. 5 (La.App. 5 Cir. 12/12/06), 948 So.2d 215, 220.

In its analysis, the district court did not evaluate the significant probative value of photograph "G-1" which, according to the state, depicts the defendant wearing the same clothing described by eyewitnesses. The district court only conjectured that unfair prejudice may ensue because the man

in the photograph “may or may not be” depicting a gang sign with one hand and making a vulgar gesture by having his other hand near or on his groin.

However, La. C.E. art. 403 requires balancing the probative value of relevant evidence against the potential for unfair prejudice to the defendant. Therefore, in the metaphorical terms of a balancing scale, the district court placed nothing on the side of the balance dedicated to relevance and, instead, placed only conjecture on the side of the balance dedicated to unfair prejudice.

This one-sided evaluation of the evidence was an abuse of discretion. In our view, we find that the probative value of photograph “G-1” outweighs any potential unfair prejudice. As previously noted, the identity of the perpetrator is a greatly significant, relevant issue for trial. See *Weatherspoon*, 06-539 at 5, 948 So.2d at 220.

In contrast, we find the risk of unfair prejudice to the defendant is low. The district court merely conjectured that the man depicted in the photo was making “gestures that may or may not be some form of gang sign.” Additionally, it should be noted that the man in the photo is posing for the photograph in the middle of a city intersection. If the conduct depicted in the photo is innocuous enough to undertake in a public place, then it logically follows that the same conduct does not weigh heavily as being unfairly prejudicial.

Having found an abuse of discretion, we reverse the district court’s ruling that the photographic evidence designated as “G-1” must be excluded due to unfair prejudice. In all other respects, we affirm. This matter is remanded to the district court for further proceedings consistent with this opinion. WRIT GRANTED IN PART AND REMANDED. STAY LIFTED. JOHNSON, C.J., would deny.

KNOLL, J., would deny.