

SUPREME JUDICIAL COURT OF MAINE

State v. Stewart

930 A.2d 1031 (Me. 2007) · Decided August 16, 2007

SUMMARY

The Maine Supreme Judicial Court held that aggravated assault and assault are not lesser-included offenses of elevated aggravated assault charged under 17-A M.R.S. § 208-B(1)(B), because the latter provision does not require proof of a culpable mental state. The trial court therefore erred by instructing the jury on those lesser offenses. The court vacated Stewart’s aggravated-assault conviction and remanded for entry of a judgment of acquittal.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Levy, J.; Clifford, J.; Silver, J.; Mead, J.; Saufley, C.J.; Alexander, J.
JURISDICTION	Maine
DECIDED	August 16, 2007
DISPOSITION	vacated
PROCEDURAL POSTURE	Stewart appealed his jury conviction for Class B aggravated assault after the Superior Court instructed the jury that aggravated assault and assault were lesser-included offenses of the charged crime of Class A elevated aggravated assault.
STANDARD OF REVIEW	The court reviews jury instructions in their entirety to determine whether they accurately stated the law, considering the total effect of all instructions and the potential for juror misunderstanding.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jason L. Stewart v. State of Maine

TOPICS

- lesser included offense instructions
- jury instructions
- statutory interpretation
- mens rea
- appellate procedure

PRACTICE AREAS

- criminal procedure
- criminal law
- appellate procedure

QUESTIONS PRESENTED

1. Whether aggravated assault under 17-A M.R.S. § 208(1)(C) and assault under 17-A M.R.S. § 207(1)(A) are lesser-included offenses of elevated aggravated assault under 17-A M.R.S. § 208-B(1)(B).
2. Whether the trial court's lesser-included-offense instructions were proper when the charged elevated aggravated assault theory required conduct manifesting depraved indifference to the value of human life rather than a culpable mens rea.

HOLDINGS

1. Aggravated assault under section 208(1)(C) and assault under section 207(1)(A) are not lesser-included offenses of elevated aggravated assault under section 208-B(1)(B) because the greater offense does not require proof of a culpable mental state, while the purported lesser offenses require intentional, knowing, or reckless conduct.
2. An erroneous instruction that expands the elements of the charged offense cannot make otherwise nonincluded offenses proper lesser-included offenses.

KEY QUOTATIONS

“A lesser offense that does require proof of a culpable state of mind, therefore, is not ‘necessarily committed’ when a greater offense that does not require proof of a culpable state of mind is committed.” (930 A.2d at 1034)

“a charge that does not require proof of any culpable state of mind cannot have as a lesser included offense any charge that does require such proof because the lesser offense would require proof of an element not contained in the primary charge — the mens rea.” (930 A.2d at 1034)

FACTUAL BACKGROUND

On February 12, 2006, Stewart attacked a man from behind with an iron bar, striking the victim's hand, arm, and head. The victim suffered crushed hand bones requiring pins and rods, a cut forearm muscle, and a head laceration requiring eleven staples. The attack occurred outside the Waldo-boro home Stewart shared with his girlfriend, after the victim and the victim's wife accompanied Stewart's girlfriend there to help her end her relationship with Stewart.

PROCEDURAL HISTORY

Stewart was indicted on one count of elevated aggravated assault and tried before a jury in the Superior Court for Lincoln County. The jury acquitted him of elevated aggravated assault but found him guilty of aggravated assault; it did not reach the assault charge. The Supreme Judicial Court of Maine vacated the conviction and remanded for entry of a judgment of acquittal.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remanded to the Superior Court for entry of a judgment of acquittal.

CASES CITED

- State v. Varney, 641 A.2d 185, 187 (Me. 1994)
- State v. Boyce, 1998 ME 219, 718 A.2d 1097
- State v. Goodall, 407 A.2d 268 (Me. 1979)
- State v. Woodbury, 403 A.2d 1166 (Me. 1979)
- State v. Ashley, 490 A.2d 226, 229 (Me. 1985)
- State v. Worrey, 322 A.2d 73, 79-81 (Me. 1974)
- State v. Carmichael, 405 A.2d 732 (Me. 1979)