

SUPREME COURT OF NEW HAMPSHIRE

State v. Blomquist

153 N.H. 216 (2006) · Decided February 14, 2006

SUMMARY

The New Hampshire Supreme Court affirmed Bruce Blomquist’s convictions for attempted murder, first-degree assault, second-degree assault, and burglary. The court held that first-degree assault under RSA 631:1, I(b), which requires use of a deadly weapon, was not a lesser-included offense of attempted murder. It also held that, in a non-bifurcated trial, the defendant was not entitled to make the final closing argument on an insanity defense.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Duggan, J.; Broderick, C.J.; Dalianis, J.; Galway, J.
JURISDICTION	New Hampshire
DECIDED	February 14, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bruce Blomquist appealed his jury convictions in the Superior Court for attempted murder, first-degree assault, second-degree assault, and burglary. He challenged the denial of a lesser-included-offense instruction and the denial of his request to make the final closing argument on his insanity defense.
STANDARD OF REVIEW	The court reviewed the lesser-included-offense issue under the statutory-elements and rational-basis framework. The order of closing arguments was reviewed for an unsustainable exercise of discretion or manifest abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Bruce Blomquist v. State of New Hampshire

TOPICS

- criminal procedure
- appellate procedure
- preservation of error
- double jeopardy
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether first-degree assault under RSA 631:1, I(b), was a lesser-included offense of attempted murder such that the defendant was entitled to a jury instruction on that offense.
2. Whether a defendant who bears the burden of proving insanity is entitled, in a non-bifurcated criminal trial, to make the final closing argument or a rebuttal closing argument on the insanity issue.
3. Whether the 1987 amendment to RSA 628:2, which increased the defendant's burden of proving insanity, required overruling the rule that the State generally closes last in a non-bifurcated trial.

HOLDINGS

1. First-degree assault under RSA 631:1, I(b), is not a lesser-included offense of attempted murder because it requires proof that the defendant used a deadly weapon, while attempted murder does not.
2. A criminal defendant in a non-bifurcated trial has no right to make the final closing argument, or a rebuttal closing argument limited to insanity, merely because the defendant bears the burden of proof on the insanity defense.

KEY QUOTATIONS

“The lesser-included offense analysis has two requirements: First, the lesser offense must be embraced within the legal definition of the greater offense.” (153 N.H. at 219)

“Accordingly, because use of a deadly weapon is not embraced within the legal definition of attempted murder, first-degree assault under RSA 631:1, 1(b) is not necessarily included in attempted murder.” (153 N.H. at 220)

“Absent an unsustainable exercise of discretion, a criminal defendant in a non-bifurcated trial has no right to present the last closing argument even if he bears the burden of proof with respect to the defense of insanity.” (153 N.H. at 221)

FACTUAL BACKGROUND

At approximately 4:30 a.m., Bruce Blomquist entered the Frechettes' home, stood over George Frechette while holding a knife, and stabbed both George and Jolene Frechette. Both victims suffered serious injuries requiring emergency surgery and hospitalization. The State argued that the attack arose from a longstanding grudge involving a boundary-line dispute, while Blomquist presented an insanity defense based primarily on alleged brain dysfunction associated with chronic alcoholism. The jury rejected the insanity defense and convicted him of all charged offenses.

PROCEDURAL HISTORY

Following a six-day jury trial in the Superior Court, the defendant was convicted on all charges after the jury rejected his insanity defense. The Supreme Court of New Hampshire affirmed, holding that first-degree assault

under RSA 631:1, I(b), was not a lesser-included offense of attempted murder and that the defendant had no right to present the final closing argument in a non-bifurcated trial when the State retained the burden of proving guilt.

DISPOSITION

affirmed

CASES CITED

- State v. Parra, 135 N.H. 305, 307-308 (1992)
- Bean v. Red Oak Property Management, 151 N.H. 248, 250 (2004)
- State v. Hutchinson, 137 N.H. 591, 596 (1993)
- State v. Watkins, 148 N.H. 760, 765 (2002)
- State v. Hall, 138 N.H. 446, 449 (1990)
- State v. Baker, 120 N.H. 773, 774, 776-778 (1980)
- State v. Garceau, 118 N.H. 321, 324 (1978)
- State v. Sundstrom, 131 N.H. 203, 206, 208 (1988)
- State v. Lambert, 147 N.H. 295, 296 (2001)
- State v. Blair, 143 N.H. 669, 673 (1999)

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