

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Heyward Thomas Bazar, Jr.

No. 14-0916 (Ohio County 14-F-4) (W. Va. Nov. 20, 2015) · No. No. 14-0916 · Decided November 20, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Heyward Thomas Bazar, Jr.'s conviction for battery. The court held that statements made by the victim to a responding police officer and a medical nurse were nontestimonial for Confrontation Clause purposes, and that the statements were either not hearsay or their admission was harmless given the independent evidence of guilt.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Brent D. Benjamin
JURISDICTION	West Virginia
DECIDED	November 20, 2015
DOCKET	No. 14-0916
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed his conviction for battery after the Circuit Court of Ohio County admitted statements made by the absent victim to a police officer and a trauma nurse.
STANDARD OF REVIEW	Rulings concerning a new trial and the existence of reversible error are reviewed for abuse of discretion; underlying factual findings are reviewed for clear error; and questions of law are reviewed de novo. Constitutional error is reversible unless harmless beyond a reasonable doubt.
PRECEDENTIAL VALUE	Memorandum decision with limited precedential value under West Virginia appellate practice
PARTIES	Heyward Thomas Bazar, Jr. v. State of West Virginia

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether admitting the investigating officer's testimony about the victim's statements violated Bazar's Sixth Amendment Confrontation Clause rights because the victim did not testify.
2. Whether admitting the trauma nurse's testimony about the victim's statements violated the Sixth Amendment Confrontation Clause.
3. Whether the challenged statements constituted inadmissible hearsay under the West Virginia Rules of Evidence.
4. Whether any error in admitting the challenged statements was harmless in light of the independent evidence of guilt.

HOLDINGS

1. The victim's statements to the investigating officer were nontestimonial because the officer questioned her while responding to an ongoing emergency involving a bleeding domestic-violence victim.
2. The officer's testimony did not violate the rule against hearsay because the victim's statements were admitted to explain why and how Bazar was arrested, not for the truth of the matter asserted.
3. The victim's statements to the trauma nurse were nontestimonial because they were made to obtain medical treatment, not in response to law-enforcement interrogation or for use at a later criminal trial.
4. Even assuming either challenged statement was inadmissible, any error was harmless because substantial independent evidence, including eyewitness testimony and physical evidence, supported the battery conviction.

KEY QUOTATIONS

“A confrontation clause inquiry is twofold. First, a court should determine whether the contested statement by an out-of-court declarant qualifies as testimonial under Crawford and its progeny. Second, the court should apply the appropriate safeguard.” (at 3)

“This evidence was clearly gathered from the officer in order to address an ongoing emergency.” (at 3)

“Therefore, we find that this statement is non-testimonial.” (at 4)

FACTUAL BACKGROUND

Police responded to a domestic-disturbance call at a Wheeling boarding house and found the victim crying hysterically and bleeding profusely from her head. At the scene, she told an investigating officer that Bazar had beaten her and that she had been punched. A neighbor and his wife testified that they saw Bazar holding the victim by her hair and hitting or knocking her into a doorway, while a trauma nurse testified that the victim reported being assaulted and struck multiple times by her boyfriend. The jury convicted Bazar of battery, and the circuit court imposed a one-year jail sentence.

PROCEDURAL HISTORY

Bazar was indicted for malicious assault, tried before a jury, and convicted of the lesser included offense of battery. The circuit court sentenced him to one year in jail. He appealed, arguing that admission of the victim's statements violated the Sixth Amendment Confrontation Clause and the rules against hearsay. The Supreme Court of Appeals of West Virginia affirmed the circuit court's order in a memorandum decision.

DISPOSITION

affirmed

CASES CITED

- State v. Vance, 207 W. Va. 640, 535 S.E.2d 484 (2000)
- State v. White, 228 W. Va. 530, 722 S.E.2d 566 (2011)
- State ex rel. Grob v. Blair, 158 W. Va. 647, 214 S.E.2d 330 (1975)
- State v. Salmons, 203 W. Va. 561, 509 S.E.2d 842 (1998)
- State v. Mechling, 219 W. Va. 366, 633 S.E.2d 311 (2006)
- Crawford v. Washington, 541 U.S. 36 (2004)
- State v. Kaufman, 227 W. Va. 537, 711 S.E.2d 607 (2011)
- State v. Surbaugh, 230 W. Va. 212, 737 S.E.2d 240 (2012)
- State v. Bowling, 232 W. Va. 529, 753 S.E.2d 27 (2013)
- State v. Helmick, 201 W. Va. 163, 495 S.E.2d 262 (1997)