

SUPREME COURT OF NORTH CAROLINA

State v. Goss, 361 N.C. 610

651 S.E.2d 867 (2007) · No. No. 316A05 · Decided November 9, 2007

SUMMARY

The Supreme Court of North Carolina reviewed Christopher Edward Goss's first-degree murder conviction and death sentence for the killing of Deborah Sturgill Veler. The court addressed, among other issues, the reopening of voir dire, the defendant's right to consult counsel during a psychiatric evaluation, and whether defense counsel's closing argument improperly conceded guilt. The excerpt concludes while analyzing the alleged concession under North Carolina's Harbison doctrine.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Brady, Justice
JURISDICTION	North Carolina
DECIDED	November 9, 2007
DOCKET	No. 316A05
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed as of right to the Supreme Court of North Carolina from his conviction for first-degree murder and death sentence.
STANDARD OF REVIEW	Abuse of discretion for reopening voir dire; limited review for unpreserved prosecutorial-argument claims to determine whether gross improprieties required ex mero motu intervention; de novo application of preservation and waiver principles; proportionality review for a capital sentence.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of North Carolina.
PARTIES	Christopher Edward Goss v. State of North Carolina

TOPICS

- criminal procedure
- jury selection
- right to counsel
- ineffective assistance
- appellate procedure

PRACTICE AREAS

criminal procedure

capital punishment

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by reopening voir dire of two prospective jurors who had failed to disclose relatives with criminal convictions.
2. Whether the trial court's order barring defendant from consulting with counsel during a mid-trial psychiatric evaluation violated his constitutional right to counsel, and whether the issue was preserved.
3. Whether defense counsel's statement during closing argument constituted an unauthorized concession of guilt under *State v. Harbison*.
4. Whether the prosecutor's closing argument concerning defendant's assault of a jail informant was grossly improper and required *ex mero motu* intervention.
5. Whether the trial court's capital-sentencing instructions regarding aggravating and mitigating circumstances violated applicable law or constitutional rights.
6. Whether the evidence supported the aggravating circumstances found by the jury and whether the death sentence was imposed under passion, prejudice, or an arbitrary factor.
7. Whether defendant's death sentence was disproportionate to the crime and similar cases.

HOLDINGS

1. The trial court did not abuse its discretion by reopening voir dire of prospective jurors Brown and Dancy after learning that they had relatives who had been criminal defendants.
2. Defendant's constitutional challenge to the order barring consultation with counsel during the psychiatric evaluation was waived and dismissed because defendant failed to object at trial and failed to assign plain error.
3. Defense counsel's reference to the consequences of a first-degree murder conviction did not constitute *Harbison* error or an unauthorized concession of guilt.
4. The trial court did not commit reversible error by failing to intervene *ex mero motu* during the prosecutor's argument because any possible prejudice was cured by the jury instructions limiting the evidence's use.
5. The challenged capital-sentencing instructions were proper under controlling North Carolina precedent, the aggravating circumstances were supported by the evidence, and the death sentence was neither arbitrary nor disproportionate.

KEY QUOTATIONS

"Even alleged errors arising under the Constitution of the United States are waived if defendant does not raise them in the trial court." (at 875)

"When counsel admits his client's guilt without first obtaining the client's consent, the client's rights to a fair trial and to put the State to the burden of proof are completely swept away." (at 875)

“'Harbison error' amounts to a per se violation of a defendant's right to the effective assistance of counsel.”
(at 876)

FACTUAL BACKGROUND

Christopher Edward Goss entered the home of his neighbor, Deborah Sturgill Veler, during the night and attacked her after she confronted him about an alleged prior rape of her daughter and threatened to call police. He repeatedly beat and stabbed Veler, ultimately slitting her throat, and then staged the scene to resemble a burglary and attempted to conceal his identity and destroy evidence. Veler's three-year-old grandson remained in the home, and investigators later linked blood evidence to Goss. Goss eventually confessed after being questioned and ordered to provide hair and blood samples.

PROCEDURAL HISTORY

A jury in Ashe County Superior Court found defendant guilty of first-degree murder based on premeditation and deliberation and the felony-murder rule. The jury recommended death, and the trial court entered judgment imposing that sentence on 8 February 2005. The Supreme Court of North Carolina reviewed the conviction and sentence and found no prejudicial error.

DISPOSITION

affirmed

CASES CITED

- State v. Bond, 345 N.C. 1, 478 S.E.2d 163 (1996)
- State v. Parton, 303 N.C. 55, 277 S.E.2d 410 (1981)
- Crumpton v. Mitchell, 303 N.C. 657, 281 S.E.2d 1 (1981)
- State v. Braxton, 352 N.C. 158, 531 S.E.2d 428 (2000)
- State v. Jaynes, 342 N.C. 249, 464 S.E.2d 448 (1995)
- State v. Golphin, 352 N.C. 364, 533 S.E.2d 168 (2000)
- State v. Call, 349 N.C. 382, 508 S.E.2d 496 (1998)
- State v. Maske, 358 N.C. 40, 591 S.E.2d 521 (2004)
- State v. Campbell, 359 N.C. 644, 617 S.E.2d 1 (2005)
- State v. Harbison, 315 N.C. 175, 337 S.E.2d 504 (1985)
- State v. Matthews, 358 N.C. 102, 591 S.E.2d 535 (2004)
- Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- State v. Braswell, 312 N.C. 553, 324 S.E.2d 241 (1985)
- State v. Alston, 341 N.C. 198, 461 S.E.2d 687 (1995)
- State v. Jones, 355 N.C. 117, 558 S.E.2d 97 (2002)
- State v. Trull, 349 N.C. 428, 509 S.E.2d 178 (1998)
- State v. Tyler, 346 N.C. 187, 485 S.E.2d 599 (1997)

- State v. McCarver, 341 N.C. 364, 462 S.E.2d 25 (1995)
- State v. Elliott, 360 N.C. 400, 628 S.E.2d 735 (2006)
- State v. Skipper, 337 N.C. 1, 446 S.E.2d 252 (1994)
- State v. Conaway, 339 N.C. 487, 453 S.E.2d 824 (1995)
- State v. Cummings, 361 N.C. 438, 648 S.E.2d 788 (2007)
- State v. McNeill, 360 N.C. 231, 624 S.E.2d 329 (2006)
- State v. Kemmerlin, 356 N.C. 446, 573 S.E.2d 870 (2002)
- State v. Benson, 323 N.C. 318, 372 S.E.2d 517 (1988)
- State v. Stokes, 319 N.C. 1, 352 S.E.2d 653 (1987)
- State v. Rogers, 316 N.C. 203, 341 S.E.2d 713 (1986)
- State v. Gaines, 345 N.C. 647, 483 S.E.2d 396 (1997)
- State v. Vandiver, 321 N.C. 570, 364 S.E.2d 373 (1988)
- State v. Young, 312 N.C. 669, 325 S.E.2d 181 (1985)
- State v. Hill, 311 N.C. 465, 319 S.E.2d 163 (1984)
- State v. Bondurant, 309 N.C. 674, 309 S.E.2d 170 (1983)
- State v. Jackson, 309 N.C. 26, 305 S.E.2d 703 (1983)