

SUPREME COURT OF CALIFORNIA

People v. Cook

40 Cal. 4th 1334, 58 Cal. Rptr. 3d 340, 157 P.3d 950 (2007) · No. S042659 · Decided May 17, 2007

SUMMARY

The California Supreme Court affirmed Joseph Lloyd Cook's convictions and death sentence for two first degree murders, burglary, and two robberies. The opinion addressed challenges concerning the excusal of a prospective juror opposed to the death penalty, admission of electrophoretic blood-testing evidence, and destruction of potentially exculpatory evidence. The court concluded that the trial court committed no reversible error.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Chin, J.; George, C.J.; Kennard, J.; Baxter, J.; Werdegar, J.; Moreno, J.; Corrigan, J.
JURISDICTION	California
DECIDED	May 17, 2007
DOCKET	S042659
DISPOSITION	affirmed
PROCEDURAL POSTURE	Automatic appeal from a judgment of the San Bernardino County Superior Court imposing the death penalty after convictions for two counts of first degree murder, burglary, and two counts of robbery, with special-circumstance findings and weapon-use enhancements.
STANDARD OF REVIEW	The court applied de novo review to whether the prospective juror's views substantially impaired her ability to perform her duties; substantial-evidence and totality-of-the-circumstances principles to identification issues; abuse-of-discretion review to evidentiary, mistrial, sanction, and instructional rulings; and constitutional review to the statutory and instructional challenges.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; precedential.
PARTIES	Joseph Lloyd Cook v. The People

TOPICS

criminal procedure

jury selection

expert testimony

due process

sentencing

PRACTICE AREAS

criminal law

criminal procedure

capital punishment

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly excused a prospective capital juror based solely on her questionnaire responses without conducting additional voir dire.
2. Whether electrophoretic testing of bloodstains on Cook's shoes satisfied California's Kelly standard for admission of scientific evidence.
3. Whether the prosecution's failure to preserve a trash bag, electrophoretic gel plates, and a parolee photograph book violated due process or warranted sanctions or a jury instruction.
4. Whether pretrial and in-court eyewitness identification procedures were impermissibly suggestive or violated Cook's right to counsel.
5. Whether admission of Cook's letter to his landlord and testimony concerning a witness's prior consistent statement was erroneous.
6. Whether prosecutorial comments, jury exposure to newspaper articles, and jury instructions concerning reasonable doubt and motive required reversal.
7. Whether the penalty-phase rulings and California's death-penalty statutes and instructions violated constitutional requirements concerning mitigating evidence, burdens of proof, aggravating circumstances, proportionality, equal protection, vagueness, and international law.
8. Whether cumulative error required reversal of the judgment.

HOLDINGS

1. A capital prospective juror may be excused for cause when the juror's questionnaire responses, considered as a whole, show that the juror's views would prevent or substantially impair performance of the juror's duties, even if the juror also states that she could set aside her views and follow the law. Because defense counsel expressly agreed to submit the challenge on the questionnaire without further voir dire, the claim was also forfeited.
2. The electrophoretic testing of bloodstains on Cook's shoes was admissible under California's Kelly test. Once a scientific methodology is generally accepted, variations in technique ordinarily affect the weight of the evidence rather than its admissibility, absent a material scientific distinction or material failure to use accepted procedures.
3. The prosecution's failure to preserve the trash bag, electrophoretic gel plates, and original parolee photograph book did not violate due process and did not require sanctions because Cook failed to show that the evidence was materially exculpatory or that the prosecution acted in bad faith.
4. Under the federal Constitution, the right to counsel does not attach at a preindictment lineup before formal adversarial judicial proceedings have commenced, even when suspicion has focused on the

defendant and the defendant has requested counsel.

5. The identification procedures used for the Wilcox witnesses were not shown to be impermissibly suggestive as a demonstrable reality, and the trial court properly admitted the identifications.
6. California's capital-sentencing statutes and instructions were not unconstitutional because they did not assign the prosecution a beyond-a-reasonable-doubt burden for aggravating factors or the penalty balance, require unanimity or written findings concerning aggravating factors, provide intercase proportionality review, or otherwise define aggravating and mitigating considerations with unconstitutional vagueness or overbreadth.

KEY QUOTATIONS

“once a scientific procedure such as electrophoretic testing of bloodstains has become generally accepted, mere variations in technique or procedure go to the weight of the evidence, not its admissibility.” (58 Cal. Rptr. 3d at 349)

“Kelly “tests the fundamental validity of a new scientific methodology, not the degree of professionalism with which it is applied.”” (58 Cal. Rptr. 3d at 350)

“The view that the right to counsel does not attach until the initiation of adversary judicial proceedings has been confirmed by this Court in cases subsequent to Kirby” (58 Cal. Rptr. 3d at 356)

“A due process violation occurs only if the identification procedure is “so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification.”” (58 Cal. Rptr. 3d at 357)

FACTUAL BACKGROUND

Hubert and Pearl Hails were murdered in their Joshua Tree home on July 9, 1992. Cook had been working for the Hailses, was seen with their white pickup truck shortly after the murders, sold their stereo speakers to his brother, and was linked to the victims' property and work records by palm prints and other evidence. Blood consistent with Pearl Hails was found on shoes in Cook's garage, blood consistent with Hubert Hails was found on Cook's patio, and eyewitnesses identified Cook near the truck.

PROCEDURAL HISTORY

Cook was convicted and sentenced to death in the San Bernardino County Superior Court. He challenged numerous guilt-phase and penalty-phase rulings, including jury selection, admission of electrophoretic blood evidence, destruction of evidence, eyewitness identifications, prosecutorial conduct, jury instructions, and the constitutionality of California's capital-sentencing scheme. The California Supreme Court exercised automatic appellate jurisdiction and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- *Wainwright v. Witt*, 469 U.S. 412 (1985)
- *People v. Stewart*, 33 Cal. 4th 425, 93 P.3d 271 (2004)
- *People v. Avila*, 38 Cal. 4th 491, 133 P.3d 1076 (2006)
- *People v. Kelly*, 17 Cal. 3d 24, 549 P.2d 1240 (1976)
- *People v. Cooper*, 53 Cal. 3d 771, 809 P.2d 865 (1991)
- *People v. Venegas*, 18 Cal. 4th 47, 954 P.2d 525 (1998)
- *People v. Farmer*, 47 Cal. 3d 888, 765 P.2d 940 (1989)
- *Arizona v. Youngblood*, 488 U.S. 51 (1988)
- *California v. Trombetta*, 467 U.S. 479 (1984)
- *People v. Farnam*, 28 Cal. 4th 107, 47 P.3d 988 (2002)
- *Kirby v. Illinois*, 406 U.S. 682 (1972)
- *United States v. Gouveia*, 467 U.S. 180 (1984)
- *People v. Bustamante*, 30 Cal. 3d 88, 634 P.2d 927 (1981)
- *Simmons v. United States*, 390 U.S. 377 (1968)
- *People v. Cunningham*, 25 Cal. 4th 926, 25 P.3d 519 (2001)
- *People v. DeSantis*, 2 Cal. 4th 1198, 831 P.2d 1210 (1992)
- *People v. Kaurish*, 52 Cal. 3d 648, 802 P.2d 278 (1990)
- *People v. Crittenden*, 9 Cal. 4th 83, 885 P.2d 887 (1994)
- *People v. Snow*, 30 Cal. 4th 43, 65 P.3d 749 (2003)
- *Ring v. Arizona*, 536 U.S. 584 (2002)
- *Apprendi v. New Jersey*, 530 U.S. 466 (2000)
- *Tuilaepa v. California*, 512 U.S. 967 (1994)
- *Pulley v. Harris*, 465 U.S. 37 (1984)