

SUPREME COURT OF KENTUCKY

Nathan McDaniel, Jr. v. Commonwealth of Kentucky

341 S.W.3d 89 (Ky. 2011) · No. 2009-SC-000443-MR · Decided June 16, 2011

SUMMARY

The Supreme Court of Kentucky reversed Nathan McDaniel Jr.'s murder conviction because the trial court improperly denied motions to strike two equivocal jurors for cause, requiring the defense to use peremptory challenges. The court held that the jury-selection error denied McDaniel a substantial right and remanded for further proceedings. It also addressed evidentiary issues likely to recur on remand, including admission of a bleach-bottle photograph, hearsay testimony, autopsy photographs, cross-examination regarding a witness's robbery conviction, and alleged prosecutorial misconduct.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Scott; Chief Justice Minton; Justice Abramson; Justice Cunningham; Justice Noble; Justice Schroder; Justice Venters
JURISDICTION	Kentucky
DECIDED	June 16, 2011
DOCKET	2009-SC-000443-MR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McDaniel appealed as a matter of right from a murder conviction and thirty-year sentence entered by the Clay Circuit Court. He challenged the denial of motions to strike two prospective jurors for cause and raised several evidentiary and prosecutorial-misconduct claims.
STANDARD OF REVIEW	The denial of a motion to strike a juror for cause is reviewed for abuse of discretion. Evidentiary rulings, including admission of KRE 404(b) evidence and regulation of cross-examination, are also reviewed for abuse of discretion. Preservation of error and the effect of an incomplete appellate record are reviewed under the applicable procedural rules and precedent.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; binding precedent in Kentucky.
PARTIES	Nathan McDaniel, Jr. v. Commonwealth of Kentucky

TOPICS

jury selection

criminal procedure

appellate procedure

hearsay

evidence

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying McDaniel's motions to strike prospective jurors S.W. and A.W. for cause.
2. Whether admission of a photograph of a bleach bottle violated KRE 404(b) or was unduly prejudicial.
3. Whether testimony by Chief Jeff Culver about information learned from Eugene Sizemore constituted inadmissible hearsay.
4. Whether the trial court improperly restricted cross-examination concerning witness Eric Schott's prior robbery conviction.
5. Whether the Commonwealth made improper comments during opening and closing argument.
6. Whether the appellate record was sufficient to establish prejudice from admission of autopsy photographs.

HOLDINGS

1. The trial court abused its discretion by seating prospective jurors who gave genuinely equivocal answers concerning their ability to be fair and impartial, thereby forcing the defense to use two peremptory strikes to secure an unbiased jury.
2. The trial court did not abuse its discretion by admitting the photograph because it was not evidence of a prior bad act by McDaniel and was relevant to the motive of his alleged co-conspirators without unduly prejudicing him.
3. Admission of Chief Culver's statements about information learned from Eugene was error because the testimony did not merely explain police action that was itself at issue.
4. The trial court did not abuse its discretion by limiting cross-examination to the fact of Schott's felony conviction and prohibiting inquiry into the circumstances of the robbery.
5. The Commonwealth's references to the beating as the worst in Clay County and to making a deal with a demon were not improper under the circumstances.
6. The court could not assess the photographs' prejudicial effect because the photographs were not included in the record, and the omission was attributed to the appellant.

KEY QUOTATIONS

“The failure to strike a clearly biased juror for cause, necessitating the use of a peremptory strike to ensure an unbiased jury, is the denial of a substantial right, and we hold that a trial court abuses its discretion when it seats a juror who is truly equivocal with regard to his or her ability to render an impartial judgment.” (94)

“Under Shane and Paulley equivocation is simply not good enough.” (94)

“We reiterate that “a trial is not fair if only parts of it can be called fair.”” (94)

FACTUAL BACKGROUND

A fight occurred at Johnny Sizemore's home on August 18, 2007, and Gerald Sizemore was severely beaten by Johnny, Michael Sizemore, and McDaniel. Gerald suffered catastrophic head injuries, was pronounced brain dead, and died on August 19, 2007. Witness Eugene Sizemore testified under a plea agreement that McDaniel participated in the beating, although Eugene's prior statement identified Michael as the person who inflicted the metal-pipe blow. McDaniel was convicted of murder after the jury-selection process required the defense to use peremptory strikes on two jurors who expressed uncertainty about their ability to be impartial.

PROCEDURAL HISTORY

McDaniel was indicted for murder and complicity to commit murder arising from the beating death of Gerald Sizemore. He was tried and convicted of murder in the Clay Circuit Court and sentenced to thirty years' imprisonment. The Supreme Court of Kentucky reversed because the trial court denied his motions to strike two equivocal jurors for cause, requiring him to use two peremptory strikes, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the Clay Circuit Court was reversed and the matter was remanded for further proceedings consistent with the opinion, including a new trial.

CASES CITED

- Paulley v. Commonwealth, 323 S.W.3d 715 (Ky. 2010)
- Shane v. Commonwealth, 243 S.W.3d 336 (Ky. 2007)
- Adkins v. Commonwealth, 96 S.W.3d 779 (Ky. 2003)
- Pendleton v. Commonwealth, 83 S.W.3d 522 (Ky. 2002)
- United States v. Wood, 299 U.S. 123, 57 S. Ct. 177, 81 L. Ed. 78 (1936)
- Pennington v. Commonwealth, 316 S.W.2d 221 (Ky. 1958)
- Commonwealth v. Mitchell, 165 S.W.3d 129 (Ky. 2005)
- Welborn v. Commonwealth, 157 S.W.3d 608 (Ky. 2005)
- Commonwealth v. English, 993 S.W.2d 941 (Ky. 1999)
- Sanborn v. Commonwealth, 754 S.W.2d 534 (Ky. 1988)
- Hudson v. Commonwealth, 202 S.W.3d 17 (Ky. 2006)
- Commonwealth v. Thompson, 697 S.W.2d 143 (Ky. 1985)
- Blair v. Commonwealth, 144 S.W.3d 801 (Ky. 2004)

- Davenport v. Commonwealth, 177 S.W.3d 763 (Ky. 2005)
- Hannah v. Commonwealth, 306 S.W.3d 509 (Ky. 2010)
- Slaughter v. Commonwealth, 744 S.W.2d 407 (Ky. 1987)
- Tamme v. Commonwealth, 973 S.W.2d 13 (Ky. 1998)
- John Sizemore v. Commonwealth, No. 2008-SC-000562-MR, 2009 WL 4251685 (Ky. Nov. 25, 2009)
- Sholler v. Commonwealth, 969 S.W.2d 706 (Ky. 1998)
- Foley v. Commonwealth, 953 S.W.2d 924 (Ky. 1997)
- Mabe v. Commonwealth, 884 S.W.2d 668 (Ky. 1994)
- Patton v. Yount, 467 U.S. 1025, 104 S. Ct. 2885, 81 L. Ed. 2d 847 (1984)
- Gabbard v. Commonwealth, 297 S.W.3d 844 (Ky. 2009)

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