

SUPREME COURT OF UTAH

State of Utah v. Douglas Anderson Lovell

State v. Lovell, 262 P.3d 803 (Utah 2011) · No. No. 20061025 · Decided August 30, 2011

SUMMARY

The Utah Supreme Court reviewed the denial of Douglas Anderson Lovell’s motion to withdraw his guilty plea to aggravated murder. The court held that the trial court failed to strictly comply with Utah Rule of Criminal Procedure 11(e) because Lovell was not clearly and unequivocally informed of certain rights, and that this failure constituted good cause to permit withdrawal of the plea.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Nehring; Chief Justice Durham; Associate Chief Justice Durrant; Justice Parrish; Justice Wilkins
JURISDICTION	Utah
DECIDED	August 30, 2011
DOCKET	No. 20061025
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Third direct appeal from a conviction for aggravated murder. The defendant appealed the district court's denial of his motion to withdraw a guilty plea.
STANDARD OF REVIEW	A ruling on a motion to withdraw a guilty plea is reviewed for abuse of discretion; factual findings are reviewed for clear error; the ultimate legal question whether the plea-taking court strictly complied with constitutional and procedural requirements is reviewed for correctness. The court held that harmless-error review does not apply to a preserved Rule 11(e) violation under the version of the rule applicable to Lovell.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Douglas Anderson Lovell v. State of Utah

TOPICS

- criminal procedure
- plea bargaining
- due process
- appellate procedure
- standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

plea withdrawal

QUESTIONS PRESENTED

1. Whether the trial court strictly complied with Utah Rule of Criminal Procedure 11(e) when accepting Lovell's guilty plea.
2. Whether the trial court could rely on Lovell's prior criminal-justice experience and other assumptions to establish that he understood rights omitted from the plea colloquy and plea affidavit.
3. Whether a preserved failure to strictly comply with Rule 11(e) is subject to harmless-error or plain-error review.
4. Whether the Rule 11 amendment adding subsection (l), which contemplates harmless-error review, applied retroactively to Lovell's plea.
5. Whether the Rule 11(e) violation constituted good cause to withdraw the guilty plea.

HOLDINGS

1. A trial court may not rely on a defendant's past trial experience, unsupported assumptions, or information not properly incorporated into the plea record to find strict compliance with Rule 11(e). The record must clearly and unequivocally demonstrate that the defendant was informed of each required right.
2. Informing a defendant that the State must prove every element beyond a reasonable doubt does not, by itself, clearly and unequivocally inform the defendant of the separate right to the presumption of innocence.
3. Lovell's attendance at prior public proceedings and prior experience with jury trials did not clearly and unequivocally establish that he knew of his right to a public trial before an impartial jury.
4. Under the version of Rule 11 applicable when Lovell entered his plea, harmless-error and plain-error review do not apply to a preserved failure to strictly comply with Rule 11(e). A defendant may establish good cause to withdraw the plea merely by showing that the trial court failed to strictly comply with the rule.
5. The current version of Utah Rule of Criminal Procedure 11(l), which contemplates disregarding variances that do not affect substantial rights, does not apply retroactively to Lovell's plea.

KEY QUOTATIONS

“Strict compliance cannot be based on assumptions about what knowledge a defendant's experience in a previous criminal proceeding conveyed.” (¶ 28)

“We conclude that the trial judge's failure to strictly comply with rule 11(e) requires us to presume harm and thus constitutes good cause to withdraw a guilty plea.” (¶ 45)

“We now resolve this uncertainty and make clear that the state of the law following Gibbons and before the language in subsection (l) was added to rule 11 is that the harmless error standard does not apply to a trial

court's failure to strictly comply with rule 11(e).” (§ 69)

“We hold that under the "good cause" standard, a trial court's failure to strictly comply with rule 11(e) is an error that requires reversal.” (§ 80)

FACTUAL BACKGROUND

Lovell entered a guilty plea to aggravated murder in 1993. The plea colloquy and plea affidavit did not clearly and unequivocally inform him of his right to the presumption of innocence or his right to a public trial before an impartial jury. The district court relied partly on Lovell's prior experience with the criminal justice system and related proceedings to find that he understood those rights.

PROCEDURAL HISTORY

Lovell previously appealed the conviction and the denial of his motion to withdraw his guilty plea. In Lovell II, the Utah Supreme Court reversed the determination that the motion was untimely and remanded for consideration of the merits. On remand, the district court found strict compliance with Utah Rule of Criminal Procedure 11(e), rejected Lovell's ineffective-assistance claims, and held that any Rule 11 error was harmless. The Utah Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the district court's denial of Lovell's motion to withdraw his guilty plea and remand for proceedings consistent with the opinion.

CASES CITED

- State v. Lovell, 1999 UT 40, 984 P.2d 382
- State v. Lovell, 2005 UT 31, 114 P.3d 575
- State v. Beckstead, 2006 UT 42, 140 P.3d 1288
- State v. Hittle, 2004 UT 46, 94 P.3d 268
- Brookside Mobile Home Park Ltd. v. Peebles, 2002 UT 48, 48 P.3d 968
- State v. Ott, 2010 UT 1, 247 P.3d 344
- State v. Gibbons, 740 P.2d 1309 (Utah 1987)
- State v. Smith, 777 P.2d 464 (Utah 1989)
- State v. Hoff, 814 P.2d 1119 (Utah 1991)
- State v. Maguire, 830 P.2d 216 (Utah 1992)
- State v. Visser, 2000 UT 88, 22 P.3d 1242
- State v. Corwell, 2005 UT 28, 114 P.3d 569
- State v. King, 2008 UT 54, 190 P.3d 1283

- State v. Bluemel, 2006 UT App 141, 134 P.3d 181
- Bluemel v. State, 2007 UT 90, 173 P.3d 842
- State v. Mora, 2003 UT App 117, 69 P.3d 838
- State v. Dean, 2004 UT 63, 95 P.3d 276
- United States v. Dominguez Benitez, 542 U.S. 74 (2004)
- United States v. Vonn, 535 U.S. 55 (2002)
- State v. Thurman, 911 P.2d 371 (Utah 1996)
- State v. Martinez, 2001 UT 12, 26 P.3d 203
- Salazar v. Utah State Prison, 852 P.2d 988 (Utah 1993)
- Taylor v. Kentucky, 436 U.S. 478 (1978)

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