

SUPREME COURT OF WYOMING

Earll v. State

29 P.3d 787 (Wyo. 2001) · No. No. 99-295 · Decided July 31, 2001

SUMMARY

The Supreme Court of Wyoming reversed Hawley Anthony Earll's conviction for accessory after the fact to the manufacture of methamphetamine and remanded for a new trial. The court held that the prosecutor's misrepresentation of testimony attributed to Earll's girlfriend created a reasonable possibility that Earll's right to a fair trial was affected. The court did not reach the confrontation and guilty-plea evidentiary issues because reversal was required on prosecutorial-misconduct grounds.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Golden, Justice; Lehman, C.J.; Golden, J.; Hill, J.; Kite, J.
JURISDICTION	Wyoming
DECIDED	July 31, 2001
DOCKET	No. 99-295
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Earll appealed his conviction for accessory after the fact to the manufacture of methamphetamine, challenging prosecutorial misconduct, a confrontation violation, denial of a new trial, and the admission and argument concerning the guilty pleas of associated witnesses.
STANDARD OF REVIEW	The court evaluated the prosecutorial-misconduct issue under harmless-error or plain-error principles, asking whether the error affected a substantial right and whether a reasonable possibility existed that the verdict would have been more favorable absent the error. The unobjected-to guilty-plea issue was subject to plain-error review.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Hawley A. Earll v. State of Wyoming

TOPICS

- prosecutorial misconduct
- criminal procedure
- harmless error
- preservation of error
- sixth amendment

PRACTICE AREAS

criminal procedure

criminal appellate practice

evidence

constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether the prosecutor committed misconduct by falsely representing during cross-examination and closing argument that Earll's girlfriend had testified that Earll smoked methamphetamine.
2. Whether the State's use of the girlfriend's out-of-court statements violated Earll's Sixth Amendment right of confrontation.
3. Whether the trial court erred in denying Earll's motion for a new trial and motion for reconsideration.
4. Whether the State's introduction and argument concerning the guilty pleas of Yates and Larson constituted plain error under Wyoming law.

HOLDINGS

1. The prosecutor's misrepresentation of the girlfriend's testimony constituted improper prosecutorial misconduct, and under the circumstances there was a reasonable possibility that the error affected Earll's right to a fair trial.
2. The jury instructions and the absence of a requested curative instruction did not eliminate the reasonable possibility that the prosecutor's misconduct substantially influenced the verdict.
3. The court did not decide whether the evidence and argument concerning Yates's and Larson's guilty pleas constituted plain error because reversal and remand were required on the prosecutorial-misconduct issue.

KEY QUOTATIONS

"We hold that a reasonable possibility exists that the accused's right to a fair trial was affected by the error. The conviction cannot stand, and we reverse and remand for a new trial." (29 P.3d at 792)

"This case is properly characterized as weak." (29 P.3d at 792)

FACTUAL BACKGROUND

Police were surveilling a trailer suspected of containing a methamphetamine laboratory. After Earll returned to the trailer and left with two women carrying bags, police stopped them and found a Pyrex dish containing fresh methamphetamine in a bag Earll had carried. At trial, cooperating witnesses Samuel Yates and Bunnie Larson testified that Earll knew about the laboratory, had smoked and purchased methamphetamine, and had packed the bag, while Earll denied knowledge and involvement. During cross-examination, the prosecutor falsely represented that Earll's girlfriend had previously testified that Earll smoked methamphetamine with the group.

PROCEDURAL HISTORY

A jury convicted Earll after a two-day trial. Before sentencing, he moved for a new trial based on the prosecutor's misrepresentation of his girlfriend's prior testimony and references to that alleged testimony during

closing argument. The trial court denied the motion and later denied reconsideration based on the Sixth Amendment confrontation claim. The Wyoming Supreme Court reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for a new trial.

CASES CITED

- Kwallek v. State, 596 P.2d 1372 (Wyo. 1979)
- Valerio v. State, 527 P.2d 154, 156 (Wyo. 1974)
- Jones v. State, 580 P.2d 1150, 1154 (Wyo. 1978)
- Jones v. State, 735 P.2d 699, 703 (Wyo. 1987)
- Kotteakos v. United States, 328 U.S. 750, 763-65 (1946)
- Brecht v. Abrahamson, 507 U.S. 619, 637 (1993)
- United States v. Herberman, 583 F.2d 222, 230 (5th Cir. 1978)
- Berger v. United States, 295 U.S. 78, 88 (1935)
- Capshaw v. State, 11 P.3d 905, 911-12 (Wyo. 2000)
- Seymour v. State, 949 P.2d 881, 883 (Wyo. 1997)
- Mazurek v. State, 10 P.3d 531, 535-40 (Wyo. 2000)
- Krulwich v. United States, 336 U.S. 440, 454 (1949) (Jackson, J., concurring)
- Lilly v. Virginia, 527 U.S. 116 (1999)