

SUPREME COURT OF KENTUCKY

Hasan A. Saxton v. Commonwealth of Kentucky

2021-SC-0353-MR (Ky. Dec. 15, 2022) · No. 2021-SC-0353-MR · Decided December 14, 2022

SUMMARY

The Supreme Court of Kentucky reviewed Hasan Saxton’s convictions arising from an alleged assault and related drug offenses. The court reversed the convictions for tampering with physical evidence, first-degree strangulation, associated persistent felony offender convictions, and possession of drug paraphernalia, while affirming the convictions for possession of marijuana and criminal mischief to the extent appealed. The opinion addressed Marsy’s Law, sufficiency of the evidence, authentication and chain of custody, directed verdicts, and cross-examination.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Conley; Chief Justice Minton; Justice Hughes; Justice Keller; Justice VanMeter; Justice Nickell; Justice Lambert
JURISDICTION	Kentucky
DECIDED	December 14, 2022
DOCKET	2021-SC-0353-MR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal as a matter of right from a Graves Circuit Court judgment following a jury trial and sentencing.
STANDARD OF REVIEW	Directed-verdict claims are reviewed under whether it would be clearly unreasonable for a jury to find guilt, viewing the evidence and reasonable inferences in favor of the Commonwealth. Evidentiary authentication rulings are reviewed for abuse of discretion. Unpreserved claims are reviewed for palpable error, and nonconstitutional evidentiary error is reviewed for harmlessness under RCr 9.24.
PRECEDENTIAL VALUE	published; to be published
PARTIES	Hasan A. Saxton v. Commonwealth of Kentucky

TOPICS

criminal procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court improperly prohibited cross-examination concerning whether Robinson had been informed of or exercised rights under Kentucky's Marsy's Law.
2. Whether the evidence was insufficient to support the tampering-with-physical-evidence conviction.
3. Whether the evidence was insufficient to support the first-degree strangulation conviction.
4. Whether the plastic container, marijuana cigar, DNA swabs, and related reports were adequately authenticated under KRE 901(a).
5. Whether admission of the buccal standards and related DNA evidence was harmless.
6. Whether the trial court erred by denying a mistrial based on a Commonwealth investigator's interaction with defense counsel in the presence of the venire.
7. Whether the possession-of-marijuana conviction was supported despite the lack of chemical testing of the substance.

HOLDINGS

1. A criminal defendant has no authority or standing to inquire into whether a victim was informed of or was receiving rights under Kentucky's Marsy's Law, and violation of those rights cannot provide a basis for relief to the defendant.
2. A defendant's mere abandonment of drugs in the vicinity and presence of police, where the evidence is readily recoverable, does not constitute concealment or removal sufficient to support tampering with physical evidence under KRS 524.100(1)(a).
3. Testimony that the defendant intentionally applied pressure to the victim's throat or neck, impeding breathing and causing the victim to fear passing out, is sufficient evidence for a jury to find first-degree strangulation.
4. The Commonwealth failed to authenticate the plastic container and marijuana cigar because no officer definitively testified that the evidence was recovered from Saxton's person or otherwise linked it to him at the foundation.
5. Admission of the two buccal standards and related DNA evidence was erroneous because no foundational testimony established that the standards were collected from Saxton and Robinson, and the error was not harmless as to the strangulation conviction.
6. Chemical testing is not an absolute prerequisite to proving a drug-related offense, and the testimony identifying the substance as marijuana, together with the circumstances of possession, supported Saxton's possession conviction.

7. The trial court did not abuse its discretion by denying a mistrial where a Commonwealth investigator briefly redirected defense counsel and Saxton before voir dire, no actual prejudice was shown, and the defense did not request an admonition or question the venire about the incident.

KEY QUOTATIONS

“The plain, indubitable meaning of these three sentences is that an accused defendant has no standing to assert the rights of his victim, and even if the victim’s rights are violated in the course of the criminal justice process, said violation can never afford the basis for vacating a conviction on direct appeal, a basis for collateral attack, or “any relief” whatsoever.” (7)

“ “[W]here a defendant merely drops, throws down, or abandons drugs in the vicinity of the defendant and in the presence and view of the police, and the officer can quickly and readily retrieve the evidence, the criminal act of concealment or removal has not taken place.” (10)

“Although we do not require a perfect chain of custody, that rule does not apply when the foundational link in the chain is lacking.” (18)

“The court did not err in refusing to declare a mistrial.” (23)

FACTUAL BACKGROUND

After Saxton returned home, Unique Robinson testified that he accused her of infidelity, slapped her, and twice applied pressure to her throat or neck, causing difficulty breathing and fear that she would pass out. Police detained Saxton and found a bag of marijuana in the rear seat of a police cruiser after he had been placed there; the bag was readily recoverable. A plastic container and marijuana cigar were allegedly found on Saxton, but no officer definitively testified to recovering them from his person. DNA evidence included a swab from Saxton's bloody left forearm and buccal standards from Saxton and Robinson, but no witness testified that the buccal standards had been collected from those individuals.

PROCEDURAL HISTORY

A jury convicted Saxton of first-degree strangulation, tampering with physical evidence, second-degree persistent felony offender, criminal mischief, possession of marijuana, and possession of drug paraphernalia, while acquitting him of first-degree rape. The jury recommended an aggregate thirty-year sentence, which the trial court reduced to twenty years. The Kentucky Supreme Court reversed the tampering, strangulation, related PFO, and drug-paraphernalia convictions; affirmed the marijuana and appealed criminal-mischief convictions; and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Graves Circuit Court for further proceedings consistent with the judgment. The tampering, strangulation, PFO II convictions based on those convictions, and possession-of-drug-paraphernalia conviction

are reversed; the possession-of-marijuana and appealed criminal-mischief convictions are affirmed.

CASES CITED

- Early v. Commonwealth, 470 S.W.3d 729, 734 (Ky. 2015)
- Myers v. Commonwealth, 87 S.W.3d 243, 246 (Ky. 2002)
- Commonwealth v. Armstrong, 556 S.W.3d 595, 602-03 (Ky. 2018)
- Delaware v. Van Arsdall, 475 U.S. 673, 680 (1986)
- United States v. Nixon, 418 U.S. 683, 709 (1974)
- Commonwealth v. Benham, 816 S.W.2d 186, 187 (Ky. 1991)
- Commonwealth v. James, 586 S.W.3d 717, 721-24, 731 (Ky. 2019)
- Taylor v. Commonwealth, 987 S.W.2d 302 (Ky. 1998)
- Commonwealth v. Bell, __ S.W.3d __, 2022 WL 12196438 (Ky. 2022)
- Ross v. Commonwealth, 531 S.W.3d 471, 476 (Ky. 2017)
- Ross v. Commonwealth, 455 S.W.3d 899, 912 (Ky. 2015)
- United States v. Cardenas, 864 F.2d 1528, 1532 (10th Cir. 1989)
- Harrod v. Commonwealth, 552 S.W.2d 682, 684 (Ky. 1977)
- Hunt v. Commonwealth, 304 S.W.3d 15, 39 (Ky. 2009)
- Payne v. Zapp, 431 S.W.2d 890, 892 (Ky. 1968)
- Brown v. Commonwealth, 553 S.W.3d 826, 836 (Ky. 2018)
- Jones v. Commonwealth, 331 S.W.3d 249, 252-53 (Ky. 2011)
- Miller v. Commonwealth, 512 S.W.2d 941, 943 (Ky. 1974)
- Butler v. Commonwealth, 516 S.W.2d 326, 328 (Ky. 1974)
- Davis v. Commonwealth, 620 S.W.3d 16, 31 (Ky. 2021)
- Stone Coal Corp. v. Varney, 336 S.W.2d 41, 42 (Ky. 1960)
- Brown v. Commonwealth, 313 S.W.3d 577, 595 (Ky. 2010)
- Kotteakos v. United States, 328 U.S. 750, 765 (1946)
- Holbrook v. Flynn, 475 U.S. 560, 570-71 (1986)
- Deal v. Commonwealth, 607 S.W.3d 652, 663-67 (Ky. 2020)
- Deck v. Missouri, 544 U.S. 622, 626 (2005)
- Estelle v. Williams, 425 U.S. 501, 512-13 (1976)
- Hammond v. Commonwealth, 504 S.W.3d 44 (Ky. 2016)
- Allen v. Commonwealth, 286 S.W.3d 221 (Ky. 2009)
- Commonwealth v. Padgett, 563 S.W.3d 639, 651 (Ky. 2018)
- Coulthard v. Commonwealth, 230 S.W.3d 572, 577-78 (Ky. 2007)
- Boyd v. Commonwealth, 439 S.W.3d 126, 130 (Ky. 2014)
- Carter v. Commonwealth, 128 S.W.2d 214, 217-18 (Ky. 1939)
- Lanham v. Commonwealth, 171 S.W.3d 14, 28-29 (Ky. 2005)

