

SUPREME COURT OF RHODE ISLAND

State v. Markus Matthews

88 A.3d 375 (R.I. 2014) · No. 2011-398-C.A. (P1/09-3674A) · Decided April 11, 2014

SUMMARY

The Rhode Island Supreme Court affirmed Markus Matthews's conviction for first-degree robbery resulting in injury. The court rejected his double-jeopardy challenge to charging alternative theories of robbery and upheld the admission of a codefendant's recorded police statement as a prior inconsistent statement. The court also concluded that the admission of the statement did not violate the Confrontation Clause.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Maureen McKenna Goldberg, J.; Frank Williams Suttell, C.J.; Francis X. Flaherty, J.; William P. Robinson III, J.; Gilbert V. Indeglia, J.
JURISDICTION	Rhode Island
DECIDED	April 11, 2014
DOCKET	2011-398-C.A. (P1/09-3674A)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his jury conviction for first-degree robbery and the denial of his motion for a new trial.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for clear abuse of discretion; constitutional issues are reviewed de novo; a ruling on a motion for a new trial is given great weight and will be disturbed only if the trial justice overlooked or misconceived material evidence on a critical issue or was otherwise clearly wrong.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Markus Matthews v. State of Rhode Island

TOPICS

double jeopardy

hearsay

sixth amendment

evidence

criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether charging first-degree robbery under separate dangerous-weapon and injury theories and submitting those theories separately to the jury violated double-jeopardy principles.
2. Whether Michael Long's recorded police statement was admissible as a prior inconsistent statement under Rhode Island Rule of Evidence 801(d)(1)(A) when Long testified but claimed a failure of memory.
3. Whether admission of Long's recorded statement violated the Sixth Amendment Confrontation Clause.
4. Whether the prosecutor's use of leading questions with Long constituted prejudicial error.
5. Whether statements made by Long in Matthews's presence were admissible as adoptive admissions under Rhode Island Rule of Evidence 801(d)(2)(B).
6. Whether the trial justice properly denied Matthews's motion for a new trial.

HOLDINGS

1. The double-jeopardy challenge was waived because Matthews did not raise it by pretrial motion as required by Rule 12(b)(2). Even if preserved, the challenge would fail because Matthews was convicted and punished for only one robbery offense, and the jury's consideration of alternative theories did not create multiple punishments or inconsistent verdicts.
2. When one offense may be committed by multiple means, the preferable practice is to charge the offense in a single count alleging the alternative theories, and the trial justice must use instructions and a verdict form that ensure the defendant is convicted, if at all, of only one offense.
3. A witness's professed failure of memory may qualify as inconsistent testimony when the trial justice determines that the claimed memory loss is effectively an implied denial of the prior statement. The prosecutor therefore could question Long about his police statement, and the recording was admissible under Rule 801(d)(1)(A).
4. Admission of Long's recorded police statement did not violate the Sixth Amendment Confrontation Clause because Long appeared at trial and was subject to cross-examination concerning the statement and the circumstances surrounding it.
5. Any error in permitting the prosecutor to use leading questions with Long was harmless because the recorded statement was properly admitted and the leading questions were necessary to address the witness's claimed inability to remember.
6. Long's statements implicating Matthews were admissible as adoptive admissions under Rule 801(d)(2)(B) because Matthews heard and understood the accusations, had an opportunity to respond, remained silent, demonstrated the choke-hold, and later said, 'We just told you what we did.'
7. The trial justice properly denied Matthews's motion for a new trial because she independently assessed the evidence and credibility of the witnesses, agreed with the jury's verdict, and did not overlook or misconceive material evidence.

KEY QUOTATIONS

“Ultimately, when confronted with a single offense in an indictment from which a jury could conclude that the offense was committed under one or more theories, it is the trial justice’s responsibility—through instructions to the jury and a carefully drafted verdict form—to ensure that a defendant stands convicted, if at all, of a single offense.” (8)

“Thus, it was permissible for the prosecutor to question him about the details of his statement to police in an attempt to refresh his recollection and for the trial justice to admit the recording.” (11)

“We are satisfied that this case represents a use of classic adoptive admissions.” (17)

FACTUAL BACKGROUND

A Domino's Pizza delivery driver was lured to an abandoned Providence house and beaten by three assailants, who took approximately twenty dollars. The driver later encountered Michael Long, one of the attackers, and Long's statements to police implicated Matthews. At trial, Long claimed not to remember the robbery or his recorded statement, while Long's former fiancée testified that Matthews was present when Long described the robbery and that Matthews demonstrated the choke-hold used on the victim. Matthews denied involvement and presented an alibi, but the jury convicted him of first-degree robbery resulting in injury.

PROCEDURAL HISTORY

A Providence County Superior Court jury acquitted Matthews of first-degree robbery by means of a dangerous weapon and conspiracy to rob, but convicted him of first-degree robbery resulting in injury. The trial justice denied his motion for a new trial and sentenced him to twenty years at the Adult Correctional Institutions, with nine years to serve and eleven years suspended with probation. The Rhode Island Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Day, 925 A.2d 962, 977, 983 (R.I. 2007)
- State v. Feliciano, 901 A.2d 631, 647 (R.I. 2006)
- Hudson v. United States, 522 U.S. 93, 99 (1997)
- State v. Grabowski, 644 A.2d 1282, 1286 (R.I. 1994)
- State v. Bolarinho, 850 A.2d 907, 908-11 (R.I. 2004)
- Pierce v. Wall, 941 A.2d 189, 194 (R.I. 2008)
- Sanabria v. United States, 437 U.S. 54, 66 n.20 (1978)
- United States v. Roy, 408 F.3d 484, 492 n.4 (8th Cir. 2005)
- State v. Saluter, 715 A.2d 1250, 1253 (R.I. 1998)
- United States v. Murray, 618 F.2d 892, 896 (2d Cir. 1980)
- State v. McManus, 990 A.2d 1229, 1232-36 (R.I. 2010)

- State v. Jaiman, 850 A.2d 984, 986-90 (R.I. 2004)
- Crawford v. Washington, 541 U.S. 36, 60-63 (2004)
- State v. Oliveira, 961 A.2d 299, 308 (R.I. 2008)
- Douglas v. Alabama, 380 U.S. 415, 416-19 (1965)
- Lee v. Illinois, 476 U.S. 530, 536, 539 (1986)
- State v. Moten, 64 A.3d 1232, 1240 (R.I. 2013)
- State v. Bido, 941 A.2d 822, 828-29 (R.I. 2008)
- State v. Heredia, 10 A.3d 443, 446 (R.I. 2010)
- State v. Imbruglia, 913 A.2d 1022, 1028 (R.I. 2007)
- State v. Texeira, 944 A.2d 132, 140 (R.I. 2008)
- State v. LaPierre, 57 A.3d 305, 310 (R.I. 2012)
- State v. Ferreira, 21 A.3d 355, 365 (R.I. 2011)
- State v. Banach, 648 A.2d 1363, 1367 (R.I. 1994)