

SUPREME COURT OF ILLINOIS

People of the State of Illinois v. Kenyatta White

353 Ill. Dec. 517 (Ill. 2011) · No. No. 109689 · Decided August 4, 2011

SUMMARY

The Illinois Supreme Court affirmed Kenyatta White’s first-degree murder conviction after determining that the evidence was not closely balanced for purposes of plain-error review. The court held that the appellate court’s discussion of whether White’s Sixth Amendment right to counsel attached during the lineup was dicta because the claimed error did not qualify for plain-error review on the record presented.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Illinois                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Justice Karmeier                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | Illinois                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | August 4, 2011                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 109689                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Defendant appealed his first-degree murder conviction and sentence, arguing that the police violated his Sixth Amendment right to counsel by preventing defense counsel from observing witnesses during a lineup identification. Because the issue was not preserved in the circuit court, the appellate court reviewed it for plain error and affirmed. The Illinois Supreme Court granted leave to appeal and affirmed the judgment upholding the conviction without reaching the constitutional questions. |
| STANDARD OF REVIEW    | Plain-error review under the closely-balanced-evidence prong; the court also compared the prejudice inquiry to ineffective-assistance analysis. Constitutional issues unnecessary to the disposition were not reached.                                                                                                                                                                                                                                                                                        |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PARTIES               | Kenyatta White v. The People of the State of Illinois                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

TOPICS

criminal procedure

sixth amendment

appellate procedure

preservation of error

harmless error

## PRACTICE AREAS

criminal law

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evidence

## QUESTIONS PRESENTED

1. Whether the evidence was closely balanced so as to warrant plain-error review of White's unpreserved Sixth Amendment claim.
2. Whether the Illinois Supreme Court should decide whether White's Sixth Amendment right to counsel had attached at the time of the lineup.
3. Whether preventing defense counsel from observing witnesses during the lineup identification violated White's Sixth Amendment right to counsel.

## HOLDINGS

1. The evidence was not closely balanced. The State presented substantial, mutually corroborating identification evidence, and the alleged lineup error did not tip the scales against White.
2. The court need not decide whether the Sixth Amendment right to counsel had attached at the lineup or whether counsel's exclusion from the witness-viewing room violated that right, because White could not establish prejudice and the record was not fully developed on those issues.
3. White was not entitled to relief because he could not establish prejudice under either the closely-balanced-evidence plain-error analysis or an ineffective-assistance analysis.

## KEY QUOTATIONS

*“the appellate court's pronouncements on the substantive issues are dicta, as the facts of this case do not bring it within the purview of plain-error review”* (at 380)

*“Accordingly, we need not resolve whether there was error here because, under a closely balanced analysis, defendant cannot establish prejudice.”* (at 409)

*“We do not, and should not, manufacture reasons to address issues—constitutional or otherwise—where the record has not been fully and fairly developed for that purpose and where resolution of the issues is unnecessary.”* (at 415)

## FACTUAL BACKGROUND

Aramein Brown was shot and killed at a Chicago gas station on January 6, 2003. Several witnesses identified Kenyatta White as the shooter through statements, photo arrays, lineup identifications, or in-court testimony, although some witnesses later recanted or weakened their identifications. White's counsel was present with him during the lineup but was not in the adjoining room where witnesses viewed the lineup. White was convicted in a bench trial and sentenced to 55 years' imprisonment.

## PROCEDURAL HISTORY

Following a bench trial in the Circuit Court of Cook County, White was convicted of first-degree murder and sentenced to 55 years' imprisonment. The Illinois Appellate Court found the evidence closely balanced, considered White's unpreserved Sixth Amendment claim under the closely-balanced-evidence prong of plain-error review, and affirmed. The Illinois Supreme Court held that the evidence was not closely balanced and that White could not establish prejudice; it therefore declined to decide whether the right to counsel had attached or whether the lineup procedure violated that right.

## DISPOSITION

affirmed

## CASES CITED

- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- People v. Bailey, 232 Ill. 2d 285, 289, 328 Ill. Dec. 22, 903 N.E.2d 409 (2009)
- People v. Herron, 215 Ill. 2d 167, 178, 294 Ill. Dec. 55, 830 N.E.2d 467 (2005)
- People v. Davis, 233 Ill. 2d 244, 273-75, 330 Ill. Dec. 744, 909 N.E.2d 766 (2009)
- People v. Sims, 192 Ill. 2d 592, 628, 249 Ill. Dec. 610, 736 N.E.2d 1048 (2000)
- People v. Keene, 169 Ill. 2d 1, 16-19, 214 Ill. Dec. 194, 660 N.E.2d 901 (1995)
- United States v. Wade, 388 U.S. 218, 241, 87 S. Ct. 1926, 18 L. Ed. 2d 1149 (1967)
- People v. Sargent, 239 Ill. 2d 166, 189-90, 346 Ill. Dec. 441, 940 N.E.2d 1045 (2010)
- People v. Walker, 232 Ill. 2d 113, 124, 327 Ill. Dec. 570, 902 N.E.2d 691 (2009)
- People v. Campa, 217 Ill. 2d 243, 270, 298 Ill. Dec. 722, 840 N.E.2d 1157 (2005)
- Barth v. Reagan, 139 Ill. 2d 399, 419, 151 Ill. Dec. 534, 564 N.E.2d 1196 (1990)
- Beahringer v. Page, 204 Ill. 2d 363, 370, 273 Ill. Dec. 784, 789 N.E.2d 1216 (2003)
- Bonaguro v. County Officers Electoral Board, 158 Ill. 2d 391, 396, 199 Ill. Dec. 659, 634 N.E.2d 712 (1994)
- People v. Waid, 221 Ill. 2d 464, 473, 303 Ill. Dec. 785, 851 N.E.2d 1210 (2006)
- Pearson v. Callahan, 555 U.S. 223, 236-41, 129 S. Ct. 808, 172 L. Ed. 2d 565 (2009)
- United States v. Cotton, 535 U.S. 625, 632-33, 122 S. Ct. 1781, 152 L. Ed. 2d 860 (2002)
- Johnson v. United States, 520 U.S. 461, 469, 117 S. Ct. 1544, 137 L. Ed. 2d 718 (1997)
- People v. Allen, 222 Ill. 2d 340, 305 Ill. Dec. 544, 856 N.E.2d 349 (2006)
- People v. Smith, 228 Ill. 2d 95, 103-06, 319 Ill. Dec. 373, 885 N.E.2d 1053 (2008)

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