

SUPREME COURT OF THE UNITED STATES

Mincey v. Arizona

434 U.S. 1343 (1977) · No. A-302 (77-5353) · Decided December 6, 1977

SUMMARY

This is a Supreme Court opinion by Justice Rehnquist denying an application to stay the retrial of a defendant on murder and assault charges pending certiorari. The applicant argued that evidence obtained in violation of constitutional rights would be admitted at trial. The Court held that such evidentiary claims can be adequately vindicated through normal post-trial review, so a stay of the trial is not warranted.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Rehnquist
JURISDICTION	Federal
DECIDED	December 6, 1977
DOCKET	A-302 (77-5353)
DISPOSITION	other
PROCEDURAL POSTURE	Application for stay of retrial pending certiorari
PRECEDENTIAL VALUE	Published
PARTIES	Rufus Junior Mincey v. State of Arizona

TOPICS

- criminal procedure
- evidence
- constitutional law
- double jeopardy
- exclusionary rule

PRACTICE AREAS

- Criminal Law
- Constitutional Law

QUESTIONS PRESENTED

- Whether the applicant is entitled to a stay of his retrial pending disposition of his petition for certiorari.

HOLDINGS

1. A stay of retrial is not warranted when the constitutional claims concern the admission of evidence, because such claims can be vindicated through post-trial review and do not implicate the Double Jeopardy Clause's protection against a second trial.

KEY QUOTATIONS

“The federal constitutional right asserted by applicant is not one such as is conferred by the Double Jeopardy Clause of the Fifth Amendment where the protection extends not only to incarceration following trial in violation of the prohibition but to the subjection of the defendant to a second trial at all.” (at 1344)

“Applicant's constitutional claims are based on constitutional prohibitions against the admission of certain evidence at trial, and will be sufficiently vindicated if he be freed from incarceration as a result of a conviction had in reliance on such evidence.” (at 1344)

FACTUAL BACKGROUND

Applicant was convicted of murder, assault, and related drug offenses arising from an incident at an apartment he leased in Tucson, Arizona. The Arizona Supreme Court reversed the murder and assault convictions due to erroneous jury instructions but affirmed the drug convictions. Applicant seeks a stay of his retrial on the murder and assault counts, arguing that evidence obtained in violation of his constitutional rights will be admitted.

PROCEDURAL HISTORY

Applicant was convicted of murder, assault, and drug offenses. The Supreme Court of Arizona reversed the murder and assault convictions due to erroneous jury instructions but affirmed the drug convictions. Applicant seeks a stay of his retrial on the murder and assault counts pending disposition of his petition for certiorari.

DISPOSITION

other

CASES CITED

- *Younger v. Harris*, 401 U.S. 37 (1971)
- *Stefanelli v. Minard*, 342 U.S. 117 (1951)

OPINION

REHNQUIST, J.

434 U.S. 1343 98 S. Ct. 23 54 L. Ed. 2d 56 Rufus Junior MINCEY, Petitioner,v.State of ARIZONA. No. A-302 (77-5353). Oct. 6, 1977. Mr. Justice REHNQUIST, Circuit Justice. 1 Applicant was convicted of murder, assault, and related drug offenses growing out of an incident which occurred at an apartment leased by him in Tucson, Ariz. The Supreme Court of Arizona reversed the murder and assault convictions because of erroneous jury instructions, but affirmed the judgments of conviction on the drug counts.

Applicant now requests a stay of his second trial on the murder and assault counts, presently scheduled to take place on November 4, for the reason that evidence which he claims was obtained in violation of his rights under the United States Constitution will be admitted at that trial.

The evidence in question was found by the Supreme Court of Arizona to have been properly admitted in his first trial, but applicant is seeking review of that determination in a petition for certiorari presently pending before this Court. He asks that the stay of his retrial be effective until his petition for certiorari is finally disposed of here. ² The petition for certiorari is less than precise as to how much of the judgment of the Supreme Court of Arizona applicant wishes this Court to review.

I think his constitutional claims with respect to the admission of evidence at his trial can be reviewed here only insofar as they pertain to those convictions affirmed by the Supreme Court of Arizona (the drug counts). Indeed, the application does not seek a stay of the judgments affirming those convictions, but refers only to the murder and assault counts.

Since the judgments of conviction on those counts have been reversed by the Supreme Court of Arizona, they are not final under 28 U.S.C. § 1257. But the constitutional claims which applicant seeks to assert in his petition for certiorari are, so far as I can tell, common to all counts. I assume for purposes of this motion that reversal by this Court of applicant's convictions on the drug counts would require reversal of a conviction obtained on the retrial of the murder count if the same evidence were admitted in that proceeding.

³ I find it unnecessary to engage in the usual speculation as to whether the petition will commend itself to four Justices of this Court, because I think that even if the petition is granted the present application should be denied.

The federal constitutional right asserted by applicant is not one such as is conferred by the Double Jeopardy Clause of the Fifth Amendment where the protection extends not only to incarceration following trial in violation of the prohibition but to the subjection of the defendant to a second trial at all. Applicant's constitutional claims are based on constitutional prohibitions against the admission of certain evidence at trial, and will be sufficiently vindicated if he be freed from incarceration as a result of a conviction had in reliance on such evidence.

Such claims must be asserted through normal post-trial avenues of review. Cf. *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971); *Stefanelli v. Minard*, 342 U.S. 117, 72 S. Ct. 118, 96 L. Ed. 138 (1951). ⁴ I therefore conclude that even though this Court were to grant the petition for certiorari to review applicant's conviction on the drug counts, he would not be entitled to have his presently scheduled trial in the Arizona court stayed pending our determination of the merits of the claims made in the petition.

I accordingly deny his motion to stay the trial.

