

SUPREME COURT OF MISSISSIPPI

Boyd v. State

47 So. 3d 121 (Miss. 2010) · No. 2009-KA-00918-SCT · Decided September 23, 2010

SUMMARY

The Supreme Court of Mississippi affirmed James Earl Boyd’s conviction for aggravated assault and his twenty-year sentence. The court held that Boyd procedurally barred his challenge to the jury instruction by failing to object at trial and, alternatively, that the instructional omission was harmless in light of the overwhelming evidence that the knife was a deadly weapon. A dissent argued that omission of the deadly-weapon element required reversal and a new trial.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Pierce, Justice; Waller, C.J.; Carlson, P.J.; Lamar, J.; Pierce, J.
JURISDICTION	Mississippi
DECIDED	September 23, 2010
DOCKET	2009-KA-00918-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a conviction and sentence for aggravated assault. Boyd challenged for the first time on appeal the trial court's failure to instruct the jury that it had to find the knife was a deadly weapon.
STANDARD OF REVIEW	Jury-instruction issues generally require a specific contemporaneous objection for appellate review; unpreserved claims are procedurally barred. The adequacy of jury instructions is reviewed by considering the instructions as a whole, and reversal is not required absent reversible error or resulting injustice.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	James Earl Boyd v. State of Mississippi

TOPICS

- jury instructions
- lesser included offense instructions
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether Boyd's unpreserved challenge to the aggravated-assault jury instruction was procedurally barred because he failed to object at trial or raise the issue in his motion for judgment notwithstanding the verdict.
2. Whether the aggravated-assault instruction was reversible error because it failed to require the jury to find that the knife was a deadly weapon or that the injuries were caused by other means likely to produce death or serious bodily harm.

HOLDINGS

1. Boyd's challenge was procedurally barred because he did not specifically object to the aggravated-assault instruction at trial and did not raise the issue in his motion for judgment notwithstanding the verdict.
2. Even apart from the procedural bar, the instructional error did not warrant reversal because the overwhelming evidence established that the knife was a deadly weapon and that Boyd's repeated cutting and stabbing of Sherrod was likely to produce serious bodily injury.

KEY QUOTATIONS

"To preserve a jury instruction issue on appeal, the defendant must make a specific objection to the proposed instruction to allow the trial court to consider the issue." (47 So. 3d at 124)

"As the statute reveals, the phrase "with a deadly weapon or other means likely to produce death or serious bodily harm" is an essential element of the statute." (47 So. 3d at 125)

"The jury must be correctly and fully instructed regarding each element of the offense charged." (47 So. 3d at 125)

FACTUAL BACKGROUND

Boyd approached Wanda Sherrod at her mother's house, produced a knife, and cut and stabbed Sherrod several times. Witnesses saw the attack, and the knife was recovered; it had a serrated edge and no blade guard. Sherrod suffered sixteen wounds, including substantial wounds to her face, neck, and arms, and medical testimony indicated that deeper neck wounds could have severed her carotid artery. Boyd was apprehended nearby with blood on his pants and hands and claimed he had been defending himself.

PROCEDURAL HISTORY

A Lowndes County Circuit Court jury convicted Boyd of aggravated assault under Mississippi Code section 97-3-7 and the trial court sentenced him to twenty years in the custody of the Mississippi Department of Corrections. Boyd did not object to the aggravated-assault elements instruction at trial and did not raise the issue

in his motion for judgment notwithstanding the verdict. The Mississippi Supreme Court affirmed the conviction and sentence, holding the claim procedurally barred and alternatively without merit.

DISPOSITION

affirmed

CASES CITED

- Walker v. State, 913 So. 2d 198, 217 (Miss. 2005)
- Harris v. State, 861 So. 2d 1003, 1013-14, 1016 (Miss. 2003)
- Crawford v. State, 787 So. 2d 1236, 1244-45 (Miss. 2001)
- Colburn v. State, 431 So. 2d 1111, 1114 (Miss. 1983)
- Utz v. Running and Rolling Trucking, Inc., 32 So. 3d 450, 474 (Miss. 2010)
- Bickham v. Grant, 861 So. 2d 299, 301 (Miss. 2003)
- Beverly Enters. v. Reed, 961 So. 2d 40, 43 (Miss. 2007)
- Montana v. State, 822 So. 2d 954, 957 (Miss. 2002)
- Hunter v. State, 684 So. 2d 625, 635-36 (Miss. 1996)
- Neal v. State, 451 So. 2d 743, 757 (Miss. 1984)
- Neal v. State, 15 So. 3d 388, 397 (Miss. 2009)
- Hutchinson v. State, 594 So. 2d 17, 19-20 (Miss. 1992)
- Fairchild v. State, 459 So. 2d 793, 800-01 (Miss. 1984)
- Lancaster v. State, 200 So. 721, 722 (Miss. 1941)
- Kolberg v. State, 829 So. 2d 29, 48 (Miss. 2002)
- Conley v. State, 790 So. 2d 773, 793 (Miss. 2001)
- Reddix v. State, 731 So. 2d 591, 592-93 (Miss. 1999)
- Screws v. United States, 325 U.S. 91, 107 (1945)
- Smith v. State, 477 So. 2d 191, 195 (Miss. 1985)
- Shaffer v. State, 740 So. 2d 273, 282 (Miss. 1998)
- Apprendi v. New Jersey, 530 U.S. 466, 477 (2000)
- United States v. Gaudin, 515 U.S. 506, 510 (1995)
- Davis v. State, 530 So. 2d 694, 702 (Miss. 1988)
- Duckworth v. State, 477 So. 2d 935, 938 (Miss. 1985)
- Jackson v. State, 404 So. 2d 543, 544 (Miss. 1981)
- Shanklin v. State, 290 So. 2d 625, 627 (Miss. 1974)
- Johnson v. State, 230 So. 2d 810, 811 (Miss. 1970)
- Cobb v. State, 233 Miss. 54, 101 So. 2d 110, 112 (1958)
- Golden v. State, 223 Miss. 649, 78 So. 2d 788, 791 (1955)
- Gray v. State, 220 Miss. 220, 70 So. 2d 524, 525 (1954)

- Smith v. State, 49 So. 2d 244, 245 (Miss. 1950)
- Lott v. State, 130 Miss. 119, 93 So. 481, 481-82 (1922)
- Saffold v. State, 76 Miss. 258, 24 So. 314, 315 (1898)

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