

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Roman

470 Mass. 85 (2014) · No. SJC-11311 · Decided November 4, 2014

SUMMARY

The Massachusetts Supreme Judicial Court affirmed Miguel Roman’s convictions for deliberately premeditated murder and possession of a class B substance. The court rejected challenges concerning the sufficiency of the evidence, speedy-trial and delayed-discovery claims, alleged jury tampering, and the prosecutor’s instruction under Commonwealth v. Ciampa, and declined to grant relief under G. L. c. 278, § 33E.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Spina, J.; Gants, C.J.; Botsford, J.; Lenk, J.; Hines, J.
JURISDICTION	Massachusetts
DECIDED	November 4, 2014
DOCKET	SJC-11311
DISPOSITION	affirmed
PROCEDURAL POSTURE	Roman appealed convictions of deliberately premeditated murder and possession of a class B substance, challenging the denial of motions for a required finding of not guilty and dismissal, the failure to declare a mistrial sua sponte, and the jury instruction concerning cooperating witnesses. He also sought extraordinary review under G. L. c. 278, § 33E.
STANDARD OF REVIEW	The sufficiency ruling was reviewed under the Latimore/Jackson standard, viewing the evidence in the light most favorable to the Commonwealth and asking whether any rational trier of fact could find guilt beyond a reasonable doubt. The rule 36 dismissal rulings were reviewed under the governing rule 36 framework. The alleged jury-tampering issue was reviewed for abuse of discretion in the trial judge's assessment of juror impartiality. The unobjected-to jury instruction was reviewed for error and, if error existed, whether it created a substantial likelihood of a miscarriage of justice. Section 33E review was plenary and discretionary.

PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Miguel Roman v. Commonwealth

TOPICS

criminal procedure speedy trial jury instructions evidence prosecutorial misconduct

PRACTICE AREAS

criminal law criminal procedure evidence jury instructions speedy trial

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Roman's conviction of deliberately premeditated murder.
2. Whether dismissal was required under Mass. R. Crim. P. 36 because Roman was not brought to trial within the rule's time limit.
3. Whether delayed disclosure of discovery constituted prosecutorial misconduct requiring dismissal under rule 36(c).
4. Whether the trial judge was required to declare a mistrial sua sponte because of alleged jury tampering or extraneous influence by members of the victim's family.
5. Whether the instruction concerning testimony given pursuant to cooperation agreements violated Commonwealth v. Ciampa.
6. Whether relief was warranted under G. L. c. 278, § 33E.

HOLDINGS

1. The evidence, viewed in the light most favorable to the Commonwealth, was sufficient for a rational jury to find Roman guilty beyond a reasonable doubt of deliberately premeditated murder.
2. Dismissal was not required because, after accounting for excludable periods caused by acquiescence, motions, continuances, and other rule 36 exclusions, the Commonwealth brought Roman to trial within the applicable one-year period.
3. The renewed motion to dismiss was properly denied because Roman did not establish prosecutorial conduct unreasonably lacking in diligence that caused prejudice.
4. The trial judge did not abuse her discretion or commit error by declining to declare a mistrial sua sponte after conducting individual voir dire and determining that the jurors could remain fair and impartial.
5. The Ciampa instruction was adequate under the circumstances, and the failure to instruct expressly that the government did not know whether the cooperating witnesses were truthful was not reversible error because the prosecutor did not vouch for or claim special knowledge concerning their truthfulness.

KEY QUOTATIONS

"The Commonwealth is not required to prove motive." (470 Mass. at 97)

“The Commonwealth does not determine what the truth is. The jury determines what the truth is, based on the evidence that they determine to be credible.” (470 Mass. at 107)

“We do not prescribe particular words that a judge should use” (470 Mass. at 109)

FACTUAL BACKGROUND

Shortly after midnight on January 29, 2010, Roman joined Angel Gonzalez, Luis Soto, Felipe Gonzalez, and the victim in a Nissan Altima after arranging cocaine purchases. While Roman sat behind the driver, he shot the victim in the head inside the vehicle, then opened the rear passenger door and fired another shot into the victim's temple before driving away and abandoning the body. Security videos, telephone records, DNA and blood evidence, witness testimony, and Roman's statements supported the prosecution's account. Soto and Felipe testified pursuant to cooperation agreements after their murder indictments were nolle prossed, although they remained charged with accessory after the fact.

PROCEDURAL HISTORY

Indictments were returned in the Superior Court Department on February 18, 2010. A motion to dismiss was denied by Richard J. Carey, J.; a renewed motion to dismiss was denied by Cornelius J. Moriarty II, J.; and the case was tried before Constance M. Sweeney, J., resulting in convictions. The Supreme Judicial Court affirmed the convictions and declined to reduce the murder conviction or order a new trial under § 33E.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Rosario, 444 Mass. 550, 557-560 (2005)
- Commonwealth v. Fisher, 433 Mass. 340, 350 (2001)
- Commonwealth v. Hesketh, 386 Mass. 153, 157 (1982)
- Commonwealth v. Latimore, 378 Mass. 671, 677 (1979)
- Jackson v. Virginia, 443 U.S. 307, 318-319 (1979)
- Commonwealth v. Brooks, 422 Mass. 574, 581 (1996)
- Commonwealth v. Coleman, 434 Mass. 165, 168-169 (2001)
- Commonwealth v. Denehy, 466 Mass. 723, 729-731 (2014)
- Commonwealth v. Tanner, 417 Mass. 1, 3 (1994)
- Barry v. Commonwealth, 390 Mass. 285, 289, 294 (1983)
- Commonwealth v. Spaulding, 411 Mass. 503, 504 (1992)
- Barker v. Wingo, 407 U.S. 514 (1972)
- Commonwealth v. Jackson, 376 Mass. 790, 800 (1978)
- Commonwealth v. Tennison, 440 Mass. 553, 557, 560 (2003)
- Commonwealth v. Meas, 467 Mass. 434, 451 (2014), cert. denied, No. 13-10630 (U.S. Oct. 6, 2014)

- Commonwealth v. Bryant, 447 Mass. 494, 500 (2006)
- Commonwealth v. Leahy, 445 Mass. 481, 499 (2005)
- Commonwealth v. Ciampa, 406 Mass. 257, 262-266 (1989)
- Commonwealth v. Meuse, 423 Mass. 831, 832 (1996)
- Commonwealth v. Wright, 411 Mass. 678, 682 (1992), S.C., 469 Mass. 447 (2014)
- Commonwealth v. Thomas, 439 Mass. 362, 372 (2003)

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