

SUPREME COURT OF WYOMING

Sincock v. State

76 P.3d 323 (Wyo. 2003) · No. 02-4 · Decided September 12, 2003

SUMMARY

The Wyoming Supreme Court affirmed Justin Sincock's convictions for first-degree premeditated murder, first-degree felony murder, aggravated robbery, forgery, and escape. The court held that sentencing for first-degree murder and aggravated robbery did not violate double jeopardy because the jury expressly found premeditated murder, and it upheld admission of incriminating statements made to a fellow inmate. The court also rejected Sincock's challenges to the denial of a continuance and his claims of ineffective assistance of counsel.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kite, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	September 12, 2003
DOCKET	02-4
PROCEDURAL POSTURE	Direct appeal from convictions and sentences for first-degree premeditated murder, first-degree felony murder, aggravated robbery, forgery, and escape.
STANDARD OF REVIEW	Constitutional-violation claims and rulings on suppression of statements based on involuntariness are reviewed de novo; factual findings are upheld unless clearly erroneous, with evidence viewed in the light most favorable to the trial court's ruling. Denial of a continuance is reviewed for abuse of discretion, and reversal requires a clear showing of manifest injustice. Ineffective-assistance claims are ordinarily reviewed under the two-part Strickland test; under the narrow Cronin exception, prejudice may be presumed when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing.
PARTIES	Justin Sincock v. State of Wyoming

QUESTIONS PRESENTED

1. Whether sentencing Sincock for both first-degree murder and aggravated robbery violated the Double Jeopardy Clauses of the United States and Wyoming Constitutions.
2. Whether admitting testimony concerning incriminating statements Sincock made to a jail cellmate violated his constitutional rights, particularly the Sixth Amendment right to counsel.
3. Whether the trial court abused its discretion by denying a continuance after lead defense counsel withdrew because of a conflict.
4. Whether defense counsel rendered ineffective assistance by allegedly being unprepared for trial and by conceding Sincock's guilt in opening and closing argument.

HOLDINGS

1. Merger of the life sentence for first-degree murder and the term-of-years sentence for aggravated robbery was not required because the jury expressly found Sincock guilty of first-degree premeditated murder, which required proof of premeditated malice, an element not required for aggravated robbery.
2. The trial court properly admitted the cellmate's testimony because the cellmate was not acting under government instructions or as a government agent, and neither the police nor the cellmate deliberately elicited Sincock's incriminating statements.
3. The trial court did not abuse its discretion in denying a continuance because Sincock failed to show that the denial caused manifest injustice or a serious miscarriage of justice.
4. Sincock failed to establish deficient performance because the record showed counsel was adequately prepared, and his generalized claim and isolated unfamiliarity with a chronology did not overcome the presumption of professionally competent assistance.

FACTUAL BACKGROUND

Sincock was working at the Horkan residence on July 28, 1998, when Rebecca Horkan was shot and killed. Her purse, vehicle, checks, credit cards, and firearm were taken, and Sincock was later arrested in Missouri in possession of the vehicle and stolen items. While awaiting trial, Sincock shared a jail cell with Byron Burke, who independently sought the placement and later testified that Sincock made incriminating statements. Lead defense counsel withdrew less than two weeks before trial because of a conflict, but two other attorneys who had participated in the case remained and tried the case.

PROCEDURAL HISTORY

After a jury trial, Sincock was convicted on all charged offenses. The district court sentenced him to life imprisonment for first-degree murder and consecutive terms for aggravated robbery, forgery, and escape. The district court denied motions to suppress a jailhouse informant's testimony and for continuances after lead defense counsel withdrew, and Sincock appealed, also asserting ineffective assistance of counsel.