

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Turner v. State

851 So. 2d 276 (Fla. Dist. Ct. App. 2003) · Decided August 2, 2003

SUMMARY

The Florida appellate court reversed the defendant’s conviction for possession of a firearm by a convicted felon and remanded for a new trial. It held that the trial court improperly threatened to declare a mistrial unless the defendant testified, thereby infringing his right not to testify, and that no manifest necessity justified a mistrial.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Taylor, J.; Gunther, J.; Klein, J.
JURISDICTION	Florida
DECIDED	August 2, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his conviction for possession of a firearm by a convicted felon, arguing that the trial court improperly threatened to declare a mistrial unless he testified.
STANDARD OF REVIEW	The propriety of a mistrial over the defendant's objection is governed by the manifest-necessity standard.
PRECEDENTIAL VALUE	Published Florida Fourth District Court of Appeal opinion
PARTIES	Turner v. State of Florida

TOPICS

- criminal procedure
- double jeopardy
- fifth amendment
- appellate procedure
- evidence

PRACTICE AREAS

- Criminal procedure
- Constitutional law
- Appellate procedure
- Evidence

QUESTIONS PRESENTED

1. Whether the trial court could threaten or declare a mistrial over the defendant's objection based on defense counsel's opening-statement comments without first establishing manifest necessity and

considering reasonable alternatives.

2. Whether forcing the defendant to choose between testifying and allowing a mistrial violated his constitutional right not to testify.

HOLDINGS

1. A mistrial over the defendant's objection is improper absent manifest necessity, and manifest necessity requires the trial court to explore and evaluate all reasonable alternatives before ending the trial.
2. A defendant's decision to testify cannot be compelled by threatening a mistrial, because the defendant has an absolute right not to testify unless he freely chooses to do so.

KEY QUOTATIONS

“The doctrine of manifest necessity requires the trial court to explore all possible alternatives before declaring a mistrial over a defendant’s objection.” (279)

“As a defendant has an absolute right not to testify at his own trial unless he freely chooses to do so, this was not a reasonable alternative.” (279)

“Here, where there were no circumstances of manifest necessity justifying declaration of a mistrial, appellant was unfairly forced to choose between two equally important constitutional rights.” (279)

FACTUAL BACKGROUND

After Turner was stopped for speeding and taken into custody for driving with a suspended license, an inventory search of the vehicle revealed a firearm in a black pouch on the front-seat floorboard. Turner was charged with possession of a firearm by a convicted felon and driving without a valid license. The trial court excluded dispatch information concerning vehicle ownership and then threatened to declare a mistrial unless Turner testified to support defense counsel's opening-statement comments about the State's lack of evidence that Turner owned the vehicle. Turner testified despite expressing that he did not want to do so because of his prior felony convictions, and the jury convicted him.

PROCEDURAL HISTORY

Turner was convicted after a jury trial of possession of a firearm by a convicted felon. During trial, the court stated that it would entertain or grant a mistrial based on defense counsel's opening statement if Turner did not testify. Turner testified, was impeached with his prior convictions, and was convicted. The Fourth District Court of Appeal reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a new trial.

CASES CITED

- Thomason v. State, 620 So. 2d 1234 (Fla. 1993)
- Wade v. Hunter, 336 U.S. 684, 689 (1949)
- United States v. Jorn, 400 U.S. 470, 485 (1971)
- Butler v. State, 728 So. 2d 286 (Fla. 3d DCA 1999)

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