

SUPREME COURT OF NEW HAMPSHIRE

State v. Nocas

165 N.H. 146 (2013) · Decided July 16, 2013

SUMMARY

The New Hampshire Supreme Court affirmed Michael Carpenter Nocas’s conviction for being an accomplice to armed robbery. The court rejected challenges to the sufficiency of the evidence, the failure to instruct on defense of another, the exclusion of a hearsay statement, and the admission of testimony concerning Nocas’s invocation of his right to counsel. The opinion addresses accomplice liability, justification defenses, offers of proof, hearsay, and plain-error review.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Lynn, J.; Dalianis, C.J.; Hicks, J.; Conboy, J.; Bassett, J.
JURISDICTION	New Hampshire
DECIDED	July 16, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Nocas appealed his Superior Court jury conviction for being an accomplice to armed robbery, challenging the sufficiency of the evidence, the failure to give a defense-of-another instruction, the exclusion of proposed hearsay, and the admission of testimony that he invoked his right to counsel.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by asking whether, viewing all evidence and reasonable inferences in the light most favorable to the State, no rational trier of fact could have found guilt beyond a reasonable doubt. Jury-instruction decisions are reviewed for an unsustainable exercise of discretion, while statutory interpretation is reviewed de novo. Evidentiary rulings are reviewed for an unsustainable exercise of discretion. Unpreserved claims are reviewed for plain error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Carpenter Nocas v. State of New Hampshire

TOPICS

criminal procedure

jury instructions

hearsay

evidence

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PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether sufficient evidence supported Noucas's conviction for being an accomplice to armed robbery.
2. Whether the trial court was required to instruct the jury on defense of another under RSA 627:4.
3. Whether the trial court improperly excluded proposed testimony concerning Rivera's alleged statement that he planned to rob Noucas.
4. Whether the trial court committed plain error by failing sua sponte to strike or give a curative instruction concerning testimony that Noucas invoked his right to counsel.

HOLDINGS

1. The evidence, viewed in the light most favorable to the State, was sufficient for a rational jury to find beyond a reasonable doubt that an armed robbery occurred and that Noucas, with the purpose of promoting or facilitating it, aided or agreed to aid Hart in committing it.
2. The court declined to reach Noucas's argument that lack of renunciation under RSA 626:8, VI(c) was an element the State had to prove because the argument was not preserved in the trial court.
3. The trial court did not err by refusing to instruct the jury on self-defense or defense of another because Noucas denied the charged conduct and presented a conflicting factual account rather than admitting the conduct and asserting a legally recognized justification.
4. The trial court sustainably exercised its discretion in sustaining the State's hearsay objection because Noucas failed to make a sufficiently specific offer of proof establishing that the proposed testimony was admissible and, in any event, failed to show prejudice.
5. The trial court did not commit plain error by failing sua sponte to strike testimony that Noucas invoked his right to counsel or to give a curative instruction.

KEY QUOTATIONS

“To prevail on a challenge to the sufficiency of the evidence, a defendant must show that “no rational trier of fact, viewing all of the evidence and all reasonable inferences from it in the light most favorable to the State, could have found guilt beyond a reasonable doubt.”” (151)

“A “theory of defense” is akin to a “civil plea of confession and avoidance, by which the defendant admits the substance of the allegation but points to facts that excuse, exonerate or justify his actions such that he thereby escapes liability.”” (155-156)

“In short, the defendant asked the jury to disbelieve Sallies’ testimony that he planned and committed armed robbery, and to believe instead his testimony that he and Hart went to Longval’s house to have a conversation

with Rivera, a conversation which led Rivera to stab Hart and prompted the defendant to use force in defense of Hart.” (156)

“Under the plain error rule, we may consider errors not raised before the trial court.” (160-161)

FACTUAL BACKGROUND

Noucas planned a robbery with Julie Sallies and Robert Hart, traveled with them to the intended victim's residence, directed where Sallies should park, and entered the property with Hart while wearing a ski mask and carrying a knife. Hart was later found dead from multiple stab wounds, and the intended victim, David Rivera, had cuts. A ski mask and rubber glove recovered from the residence tested positive for Noucas's DNA, and Noucas admitted being inside the house and using force against Rivera, although he claimed he acted to defend Hart rather than to facilitate a robbery.

PROCEDURAL HISTORY

The State charged Noucas with burglary, conspiracy to commit armed robbery, and being an accomplice to armed robbery. A jury convicted him of conspiracy and being an accomplice to armed robbery and acquitted him of burglary; the trial court later set aside the conspiracy conviction on grounds unrelated to this appeal. Noucas appealed the accomplice-to-armed-robbery conviction, and the Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Formella, 158 N.H. 114, 116 (2008)
- State v. Glanville, 145 N.H. 631, 633 (2000)
- State v. Langill, 161 N.H. 218, 228 (2010)
- State v. Saunders, 164 N.H. 342, 351 (2012)
- State v. Newcomb, 140 N.H. 72, 80 (1995)
- State v. Winward, 161 N.H. 533, 542 (2011)
- State v. Winstead, 150 N.H. 244, 246 (2003)
- LaMontagne Builders v. Bowman Brook Purchase Group, 150 N.H. 270, 274 (2003)
- State v. Etienne, 163 N.H. 57, 81 (2011)
- State v. Hast, 133 N.H. 747, 749-50 (1990)
- State v. Hernandez, 159 N.H. 394, 400 (2009)
- State v. Davidson, 163 N.H. 462, 472 (2012)
- State v. Furgal, 164 N.H. 430, 435 (2012)
- State v. Perri, 164 N.H. 400, 410 (2012)
- State v. Blomquist, 153 N.H. 216, 223 (2006)
- State v. Bruneau, 131 N.H. 104, 117-18 (1988)

- State v. Guaraldi, 124 N.H. 93, 97 (1983)
- State v. Shannon, 125 N.H. 653, 662 (1984)
- State v. Ramos, 149 N.H. 272, 274-76 (2003)
- State v. Gingras, 162 N.H. 633, 639 (2011)
- State v. Hall, 152 N.H. 374, 378 (2005)
- State v. Brooks, 164 N.H. 272, 283 (2012)
- State v. McDonald, 163 N.H. 115, 121 (2011)
- State v. Ruggiero, 163 N.H. 129, 135 (2011)
- Bohan v. Ritzo, 141 N.H. 210, 218 (1996)
- McMullin v. Downing, 135 N.H. 675, 679 (1992)
- State v. Russell, 159 N.H. 475, 489 (2009)
- Randall v. Abounaja, 164 N.H. 506, 510 (2013)
- State v. Lopez, 156 N.H. 416, 424 (2007)
- State v. King, 146 N.H. 717, 722 (2001)