

SUPREME COURT OF THE STATE OF DELAWARE

Dunn v. State

No. 644, 2014 (Del. Aug. 25, 2015) · No. No. 644, 2014 · Decided August 25, 2015

SUMMARY

The Delaware Supreme Court affirmed Tarrance P. Dunn’s convictions for Robbery in the First Degree and Theft Under \$1,500. Applying the standard for reviewing a no-merit brief under Delaware Supreme Court Rule 26(c), the Court held that the evidence was sufficient to support the robbery conviction and that the appeal presented no arguably appealable issue.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Karen L. Valihura; Holland, Justice; Valihura, Justice; Vaughn, Justice
JURISDICTION	Delaware
DECIDED	August 25, 2015
DOCKET	No. 644, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions after a bench trial; appellate counsel filed a Supreme Court Rule 26(c) brief and motion to withdraw, and the State moved to affirm.
STANDARD OF REVIEW	For a Rule 26(c) withdrawal motion, the Court determines whether counsel conscientiously examined the record and law for arguably appealable claims and independently reviews whether the appeal is so devoid of arguable issues that it may be decided without adversary presentation. For insufficiency of the evidence, the Court asks whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find all elements of the charged crime beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; precedential status beyond the source metadata is not expressly stated in the opinion.
PARTIES	Tarrance P. Dunn v. State of Delaware

TOPICS

appellate procedure

criminal procedure

standard of review

evidence

burden of proof

PRACTICE AREAS

criminal appellate practice

criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether appellate counsel satisfied the requirements for withdrawal under Delaware Supreme Court Rule 26(c).
2. Whether the evidence was sufficient to support Dunn's conviction for first-degree robbery despite inconsistencies in the victim's testimony, witness credibility concerns, and discrepancies in descriptions of the perpetrator.
3. Whether the Superior Court's judgment should be affirmed.

HOLDINGS

1. Counsel made a conscientious examination of the record and law, and the appeal was wholly without merit and devoid of any arguably appealable issue; therefore, the motion to withdraw was properly treated as moot after affirmance.
2. The evidence was sufficient for a rational trier of fact to find Dunn guilty beyond a reasonable doubt of first-degree robbery because the evidence supported that Dunn used force during a theft, intended to compel delivery of the iPhone, and caused physical injury to Shannon.

KEY QUOTATIONS

"In reviewing a claim for insufficiency of evidence, the Court must determine whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find the defendant guilty beyond a reasonable doubt of all the elements of the charged crime." (at 8)

"It was therefore within the purview of the Superior Court to credit Shannon's testimony, notwithstanding any minor inconsistencies, and find Dunn guilty of Robbery in the First Degree." (at 9)

FACTUAL BACKGROUND

Dunn was charged in connection with two iPhone theft incidents. In the September 29, 2013 incident, Austin Shannon testified that Dunn punched him in the face and took his iPhone, and a police officer observed a fresh facial contusion, pursued Dunn, and brought him to Shannon, who identified him. Dunn denied punching Shannon or taking the phone, while other evidence included surveillance footage, clothing descriptions, and a photograph of Shannon's injury. The Superior Court convicted Dunn of first-degree robbery for the September 29 incident and theft under \$1,500 for the September 25 bus incident.

PROCEDURAL HISTORY

The Superior Court found Dunn guilty after a two-day bench trial of first-degree robbery and theft under \$1,500 as a lesser-included offense relating to the bus incident. Dunn received prison and probationary sentences and

later filed a motion for judgment of acquittal, which the Superior Court denied as untimely and meritless. On direct appeal, counsel sought withdrawal under Rule 26(c), Dunn raised several challenges to the evidence, and the Delaware Supreme Court independently reviewed the record before affirming.

DISPOSITION

affirmed

CASES CITED

- Penson v. Ohio, 488 U.S. 75, 83 (1988)
- Leacock v. State, 690 A.2d 926, 927-28 (Del. 1996)
- Williamson v. State, 113 A.3d 155, 158 (Del. 2015)
- Harris v. State, 2009 WL 189162, at *2 (Del. Jan. 20, 2009)
- Malin v. State, 2008 WL 4358718, at *2 (Del. Sept. 24, 2008)

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