

SUPREME COURT OF MINNESOTA

State of Minnesota v. Everado NMN Cruz-Ramirez

State v. Cruz-Ramirez, 771 N.W.2d 497 (Minn. 2009) · No. A08-1420 · Decided August 27, 2009

SUMMARY

The Minnesota Supreme Court affirmed Everado NMN Cruz-Ramirez’s convictions arising from a gang-related shooting that killed one person and injured three others, while directing that his unsentenced convictions be vacated. The court held that gang-expert testimony concerning gang criminal activity was admissible and that any duplicative testimony did not substantially influence the verdict. It also rejected challenges to the jury instructions and concluded that the evidence was sufficient to establish intent to kill and premeditation.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Meyer, Justice
JURISDICTION	Minnesota
DECIDED	August 27, 2009
DOCKET	A08-1420
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions and sentences entered after a Hennepin County jury found Cruz-Ramirez guilty on 18 murder and attempted-murder counts.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion, and factual findings are not reversed unless clearly erroneous. Jury instructions are reviewed as a whole to determine whether they fairly and adequately explain the law; only a material misstatement of law constitutes error. Sufficiency of the evidence is reviewed in the light most favorable to the verdict, with circumstantial evidence assessed under the rational-hypothesis test. Decisions concerning cautionary jury instructions are reviewed for abuse of discretion. Unobjected-to prosecutorial-misconduct claims are generally waived, but may be reviewed for plain error or, alternatively, on the merits for prejudice to the defendant's right to a fair trial.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Minnesota.

TOPICS

expert testimony

jury instructions

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by admitting Officer Porras's expert testimony concerning gang activity.
2. Whether the district court plainly erred in instructing the jury on transferred intent and the elements of attempted murder.
3. Whether the evidence was sufficient to prove intent to kill and premeditation.
4. Whether the unsentenced convictions should be vacated under Minnesota Statutes section 609.04.
5. Whether the photograph and photo-lineup identification evidence was improperly admitted.
6. Whether the district court abused its discretion by repeatedly instructing jurors to avoid media coverage.
7. Whether the sentences for multiple victims violated Minnesota's prohibition on multiple punishment for the same behavioral incident.
8. Whether the prosecutor committed reversible misconduct during opening statement.

HOLDINGS

1. The district court did not err in admitting Officer Porras's expert testimony about the criminal activities and characteristics of the Sureños 13 and Vatos Locos gangs. The testimony assisted the jury in determining whether the gangs met the statutory definition of a criminal gang and whether the charged conduct was committed for the benefit of a gang.
2. The district court did not plainly err by instructing the jury on transferred intent because Minnesota's homicide statutes incorporate the doctrine, and the evidence allowed a finding that the victims may not each have been the intended recipient of a particular shot.
3. Although the attempted-murder instructions used incorrect wording by referring to an intent to commit the crime of attempted murder, the instructions read as a whole did not materially misstate the law and therefore did not constitute reversible plain error.
4. The evidence was sufficient to support the jury's findings that Cruz-Ramirez acted with intent to kill and premeditation.
5. The unsentenced convictions were vacated under Minnesota Statutes section 609.04, while the underlying guilty verdicts on the vacated counts remained in force.

6. The district court did not abuse its discretion by imposing multiple consecutive sentences arising from the shooting because multiple victims were involved and the sentences did not unfairly exaggerate the criminality of the conduct.

KEY QUOTATIONS

"In summary, gang expert testimony must "add precision or depth to the jury's ability to reach conclusions about matters that are not within its experience" to be admissible." (at 505)

"That doctrine, derived from the common law, stands for the principle that "a defendant may be convicted if it is proved he intended to injure one person but actually harmed another."" (at 507)

"It is sufficient to vacate the unsentenced convictions and recognize, as we did in State v. Earl, that "the jury verdicts on [the vacated] counts remain in force."" (at 510)

FACTUAL BACKGROUND

On August 25, 2007, a man exited a black car near a group of people in south Minneapolis, asked "Que barrio?" and fired multiple shots at several people near a Toyota. Heli Hernandez Leon was killed, and three other men were injured. Witnesses identified Cruz-Ramirez as the shooter, and evidence connected him to the Sureños 13 gang, which was a rival of the victims' Vatos Locos gang. Police recovered discharged casings and a bullet from the scene but did not recover the weapon.

PROCEDURAL HISTORY

A grand jury indicted Cruz-Ramirez on 18 counts arising from a shooting that killed one person and injured three others. The jury returned guilty verdicts on all charged counts, and the district court entered convictions on each count and imposed a life sentence plus three consecutive 186-month sentences. On direct appeal, the Minnesota Supreme Court affirmed the district court's judgment but modified the convictions by vacating the unsentenced convictions; the underlying guilty verdicts remained in force.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

None stated. The judgment was affirmed as modified by vacating Cruz-Ramirez's unsentenced convictions.

CASES CITED

- State v. Lopez-Rios, 669 N.W.2d 603, 610 n. 2, 612, 615 (Minn. 2003)
- State v. Mahkuk, 736 N.W.2d 675, 686 (Minn. 2007)
- State v. Jackson, 714 N.W.2d 681, 691-92 (Minn. 2006)
- State v. DeShay, 669 N.W.2d 878, 886, 888 (Minn. 2003)
- United States v. Mejia, 545 F.3d 179, 198-99 (2d Cir. 2008)

- State v. Moore, 699 N.W.2d 733, 740 (Minn. 2005)
- State v. Pendleton, 725 N.W.2d 717, 730 (Minn. 2007)
- State v. Ihle, 640 N.W.2d 910, 916 (Minn. 2002)
- State v. Hughes, 749 N.W.2d 307, 312, 315 (Minn. 2008)
- State v. Vance, 734 N.W.2d 650, 656 (Minn. 2007)
- State v. Kuhnau, 622 N.W.2d 552, 556 (Minn. 2001)
- State v. Sutherlin, 396 N.W.2d 238, 240 (Minn. 1986)
- State v. Hall, 722 N.W.2d 472, 475-78 (Minn. 2006)
- State v. Holliday, 745 N.W.2d 556, 562-63 (Minn. 2008)
- State v. Whittaker, 568 N.W.2d 440, 452-53 (Minn. 1997)
- State v. Harris, 405 N.W.2d 224, 229 (Minn. 1987)
- State v. McArthur, 730 N.W.2d 44, 49-50 (Minn. 2007)
- State v. Kendell, 723 N.W.2d 597, 606-07 (Minn. 2006)
- State v. Johnson, 616 N.W.2d 720, 730 (Minn. 2000)
- State v. Earl, 702 N.W.2d 711, 724 (Minn. 2005)
- State v. Hurd, 763 N.W.2d 17, 29-30 (Minn. 2009)
- State v. Young, 710 N.W.2d 272, 282 (Minn. 2006)
- State v. Roman Nose, 667 N.W.2d 386, 397-98 (Minn. 2003)
- State v. Richardson, 670 N.W.2d 267, 284 (Minn. 2003)
- State v. Budreau, 641 N.W.2d 919, 928 (Minn. 2002)
- State v. Wright, 719 N.W.2d 910, 918 (Minn. 2006)