

SUPREME COURT OF COLORADO

People v. Garcia

28 P.3d 340 (Colo. 2001) · Decided June 25, 2001

SUMMARY

The Colorado Supreme Court reviewed the reversal of a defendant's second-degree murder conviction for killing her husband with an ax. The court held that provocation under Colorado's amended second-degree murder statute is a mitigating factor rather than a lesser-included offense, and that the prosecution bears the burden of proving the absence of provocation. The court also held that the trial court improperly refused instructions concerning the defendant's lack of a duty to retreat and the justifiable use of deadly force to prevent sexual assault, and affirmed the reversal of the conviction.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Rice
JURISDICTION	Colorado
DECIDED	June 25, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Colorado Supreme Court granted the People's petition for certiorari to review the court of appeals' reversal of Garcia's convictions for second-degree murder and a crime of violence based on erroneous jury instructions.
STANDARD OF REVIEW	Unpreserved jury-instruction claims are reviewed for plain error; preserved instructional claims are reviewed for harmless error. Plain error requires an error affecting a substantial right and a reasonable possibility that the error contributed to the conviction. Harmless-error review requires reversal unless the error did not affect the defendant's substantial rights.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado
PARTIES	People v. Garcia

TOPICS

jury instructions

self defense

lesser included offense instructions

criminal procedure

statutory interpretation

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly characterized provoked second-degree murder as a lesser-included offense rather than treating provocation as a mitigating factor.
2. Whether the trial court improperly placed the burden on the prosecution to prove provocation beyond a reasonable doubt rather than to disprove provocation.
3. Whether Garcia was entitled to a no-duty-to-retreat instruction based on the evidence supporting her self-defense theory.
4. Whether Garcia was entitled to an instruction that deadly physical force may be justified to prevent a sexual assault.
5. Whether the instructional errors constituted reversible error.

HOLDINGS

1. Provocation under the amended second-degree murder statute is a mitigating factor that reduces the felony classification of second-degree murder, not a separate offense or lesser-included offense.
2. The prosecution bears the burden of proving the absence of provocation under the second-degree murder statute; it does not bear the burden of proving the existence of provocation beyond a reasonable doubt.
3. A defendant is entitled to a no-duty-to-retreat instruction when any evidence supports the defendant's theory that she was not the aggressor and was still in danger when deadly force was used.
4. When supported by the evidence, a defendant is entitled to an instruction that deadly physical force may be justified to prevent a first- or second-degree sexual assault or other assault specified by the self-defense statute.

KEY QUOTATIONS

“Thus, we conclude that under the second-degree murder statute, provocation represents a mitigating factor, rather than a separate offense.” (346)

“As such, we hold that the prosecution does not bear the burden of proving the existence of provocation beyond a reasonable doubt, but instead bears the burden of proving a lack of provocation under the second-degree murder statute.” (346)

“Thus, Defendant was entitled to a no-duty to retreat instruction.” (348)

“We therefore conclude that the evidence in this case supported an instruction embodying subsection (2)(c) of the self-defense statute.” (349)

FACTUAL BACKGROUND

Garcia killed her husband with a long-handled ax after a history of alleged verbal, physical, and sexual abuse. She testified that immediately before the killing her husband violently awakened her, attempted to sexually assault her, threatened to kill her, and gave her a look she understood to mean that she was about to be seriously hurt. Garcia presented evidence of Battered Woman Syndrome and claimed self-defense.

PROCEDURAL HISTORY

Garcia was charged with first-degree murder and a crime of violence after killing her husband with an ax. The trial court instructed the jury that provoked second-degree murder was a lesser-included offense and refused requested instructions on no duty to retreat and the use of deadly force to prevent sexual assault. The jury convicted Garcia of second-degree murder. The court of appeals reversed and remanded for a new trial, and the Colorado Supreme Court affirmed that judgment.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Supreme Court affirmed the court of appeals' judgment reversing Garcia's conviction and remanding for a new trial.

CASES CITED

- People v. Garcia, 1 P.3d 214 (Colo. App. 1999)
- Hansen v. State Farm Mutual Automobile Insurance Co., 957 P.2d 1380, 1384 (Colo. 1998)
- Mattas v. People, 645 P.2d 254, 257 (Colo. 1982)
- People v. Woods, 501 P.2d 117, 117 (Colo. 1972)
- People v. Dunlap, 975 P.2d 723, 737 (Colo. 1999)
- Bogdanov v. People, 941 P.2d 247, 252, 255-256 (Colo. 1997)
- Walker v. People, 932 P.2d 303, 306 n.5, 311 (Colo. 1997)
- People v. Davis, 794 P.2d 159, 189 (Colo. 1990)
- People v. Romero, 694 P.2d 1256, 1268 (Colo. 1985)
- People v. Kruse, 839 P.2d 1, 3 (Colo. 1992)
- Wilson v. People, 743 P.2d 415, 420 (Colo. 1987)
- Ramirez v. People, 682 P.2d 1181, 1183 (Colo. 1984)
- People v. Rubanowitz, 688 P.2d 231, 239 (Colo. 1984)
- Salcedo v. People, 999 P.2d 833, 841 (Colo. 2000)
- People v. Tenneson, 788 P.2d 786, 795 (Colo. 1990)
- People v. Toler, 9 P.3d 341, 347-354 (Colo. 2000)
- People v. Nunez, 841 P.2d 261, 264-265 (Colo. 1992)

- Lybarger v. People, 807 P.2d 570, 579 (Colo. 1991)
- People v. Fuller, 781 P.2d 647, 651 (Colo. 1989)
- Idrogo v. People, 818 P.2d 752, 754-756 (Colo. 1991)
- People v. Jones, 675 P.2d 9, 14 (Colo. 1984)
- Boykin v. People, 45 P. 419 (Colo. 1896)
- People v. Sepeda, 581 P.2d 723, 731 (Colo. 1978)
- People v. Reed, 695 P.2d 806, 808 (Colo. App. 1984)
- People v. Galimanis, 944 P.2d 626, 630, 633 (Colo. App. 1997)
- People v. Janes, 982 P.2d 300, 304 (Colo. 1999)
- People v. Rosales, 911 P.2d 644, 652 (Colo. App. 1995)
- People v. Wadley, 890 P.2d 151, 154 (Colo. App. 1994)
- People v. Seigler, 832 P.2d 980, 984 (Colo. App. 1991)
- People v. Yaklich, 833 P.2d 758, 762 (Colo. App. 1991)