

SUPREME COURT OF THE STATE OF DELAWARE

Seeney v. State

Seeney v. State · No. No. 323, 2021 · Decided October 20, 2022

SUMMARY

The Delaware Supreme Court affirmed Donnell Seeney’s convictions for offenses including offensive touching, breach of bond conditions, misuse of prisoner mail, and stalking. The Court held that the prosecutor’s comments concerning Seeney’s failure to deny placing his hand on the victim’s neck constituted a permissible inference from the evidence rather than improper burden shifting. The Court also held that brief references to threats against the victim’s son were adequately cured by a prompt jury instruction and did not require a mistrial or reversal for cumulative error.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Delaware                                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Per Curiam; SEITZ, Chief Justice; VALIHURA, Justice; VAUGHN, Justice                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Delaware                                                                                                                                                                                                                                                                                                                                        |
| DECIDED               | October 20, 2022                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 323, 2021                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Defendant appealed his convictions from the Delaware Superior Court, arguing prosecutorial burden shifting, denial of a mistrial after prejudicial testimony, and cumulative error.                                                                                                                                                             |
| STANDARD OF REVIEW    | Claims of prosecutorial misconduct are reviewed de novo initially to determine whether misconduct occurred; if the issue was preserved, the court reviews for harmless error, and if unpreserved, for plain error. Denial of a motion for a mistrial is reviewed for abuse of discretion. Cumulative-error claims are reviewed for plain error. |
| PRECEDENTIAL VALUE    | Published Delaware Supreme Court opinion; precedential value is not otherwise expressly stated in the source.                                                                                                                                                                                                                                   |
| PARTIES               | Donnell L. Seeney v. State of Delaware                                                                                                                                                                                                                                                                                                          |

TOPICS

prosecutorial misconduct

burden of proof

criminal procedure

appellate procedure

due process

## PRACTICE AREAS

criminal procedure

evidence

constitutional law

appellate procedure

## QUESTIONS PRESENTED

1. Whether the prosecutor improperly shifted the burden of proof by arguing that Seeney's failure to deny Harris's accusation in a text message supported an inference that he committed the conduct.
2. Whether the Superior Court abused its discretion by denying a mistrial after Harris briefly referenced threats Seeney allegedly made against her son.
3. Whether the cumulative effect of the alleged prosecutorial and evidentiary errors deprived Seeney of a fair trial.

## HOLDINGS

1. The prosecutor's comments did not constitute improper burden shifting or prosecutorial misconduct because they invited a legitimate inference from the admitted text-message evidence rather than commenting on Seeney's failure to testify or requiring him to prove his innocence.
2. The Superior Court did not abuse its discretion by denying a mistrial because the references were brief and the court promptly issued a curative instruction that was sufficient to cure any prejudice.
3. Cumulative error did not warrant a new trial because the court found no prejudicial error in the challenged prosecutorial comments or in the denial of a mistrial.

## KEY QUOTATIONS

*"In a criminal case, it is the State's burden to prove to the jury's satisfaction that there is no reasonable doubt that the defendant committed the crime."* (7)

*"A mistrial is mandated only when there are 'no meaningful and practical alternatives' to that remedy."* (9)

*"We find that the judge's prompt instruction was sufficient to cure any prejudice caused by Harris's statements, and it was not an abuse of discretion for the court to deny Seeney's motion for a mistrial."* (10)

## FACTUAL BACKGROUND

After Harris declined Seeney's sexual advances, Seeney allegedly grabbed and choked her twice during an argument at their home. Harris reported the incident, and Seeney subsequently sent texts and letters that included apologies, threats, and requests that she drop the charges. At trial, the State emphasized that Seeney responded to Harris's accusation by saying he was intoxicated but that it was no excuse, and Harris inadvertently referenced threats against her son despite redactions and an agreement not to mention them.

## PROCEDURAL HISTORY

A Superior Court jury convicted Seeney of two counts of Offensive Touching, Breach of Conditions of Bond During Commitment, Misuse of Prisoner Mail, and Stalking, while acquitting him of the remaining charges. The Superior Court sentenced him as a habitual offender and denied his motion for a mistrial. The Delaware Supreme Court affirmed the Superior Court's judgment.

#### DISPOSITION

affirmed

#### CASES CITED

- Baker v. State, 906 A.2d 139, 148 (Del. 2006) (en banc)
- Hughes v. State, 437 A.2d 559, 567 (Del. 1981)
- Burns v. State, 76 A.3d 780, 789 (Del. 2013)
- Pena v. State, 856 A.2d 548, 550-51 (Del. 2008)
- MacDonald v. State, 816 A.2d 750, 753 (Del. 2003)
- Bowe v. State, 514 A.2d 408, 410 (Del. 1986)
- Steckel v. State, 711 A.2d 5, 11 (Del. 1998)
- Fanning v. Superior Court, 320 A.2d 343, 345 (Del. 1974)
- Dawson v. State, 637 A.2d 57, 62 (Del. 1994)
- Revel v. State, 956 A.2d 23, 27 (Del. 2008)
- Michael v. State, 529 A.2d 752, 764 (Del. 1987)
- Wright v. State, 405 A.2d 685, 690 (Del. 1979)