

SUPREME COURT OF MISSOURI

State of Missouri v. Bruce D. Thompson

68 S.W.3d 393 (Mo. banc 2002) · No. SC 83875 · Decided February 26, 2002

SUMMARY

The Supreme Court of Missouri held that a trial court may not categorically prohibit a criminal defendant from referring in opening statement to exculpatory facts expected to be elicited through cross-examination of State witnesses. The court found an abuse of discretion and prejudicial error, reversed the convictions and sentences, and remanded the case. The dissent would have affirmed because the evidence of guilt was overwhelming.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Duane Benton; Stephen N. Limbaugh, Jr., C.J.; Duane Benton, J.; White, J.; Holstein, J.; Wolff, J.; Price, J.; Richard B. Teitelman, Sp. J.; Laura Denvir Stith, J.
JURISDICTION	Missouri
DECIDED	February 26, 2002
DOCKET	SC 83875
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Thompson appealed his convictions for second-degree murder and armed criminal action. After the Court of Appeals issued an opinion, the Supreme Court of Missouri granted transfer and reviewed the circuit court's limitation of Thompson's opening statement.
STANDARD OF REVIEW	The scope of an opening statement is reviewed for abuse of discretion. Reversal requires prejudicial error; the court asked whether there was a reasonable probability that the verdict would have been different absent the abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Missouri; binding Missouri precedent, decided en banc.
PARTIES	Bruce D. Thompson v. State of Missouri

TOPICS

criminal procedure

appellate procedure

standard of review

evidence

PRACTICE AREAS

criminal procedure

appellate procedure

criminal trial practice

QUESTIONS PRESENTED

1. Whether a criminal defendant may refer in opening statement to facts expected to be established through cross-examination of State witnesses rather than through the defendant's case-in-chief.
2. Whether the trial court's restriction of Thompson's opening statement constituted prejudicial abuse of discretion requiring reversal.
3. Whether the Supreme Court needed to address Thompson's challenges to the sufficiency of the evidence and the State's closing argument.

HOLDINGS

1. A trial court may not impose an absolute ban on a defendant's reference in opening statement to all facts expected to be established through cross-examination of State witnesses. Cross-examination may establish substantive facts, a defense, or a theory of the case, and a defendant who does not call witnesses retains the right to make an opening statement describing facts the defense expects to prove.
2. The trial court abused its discretion by preventing Thompson's counsel from referring to the intended cross-examination evidence, and the error was prejudicial because there was a reasonable probability that the verdict would have been different had the defense been allowed to present an effective opening statement.

KEY QUOTATIONS

“An absolute ban on reference to all cross-examination testimony denies the defendant—who does not call witnesses—the right to an opening statement.” (68 S.W.3d at 395)

“Thus, through cross-examination alone, the defense can establish facts, a defense, or theory of the case.” (68 S.W.3d at 395)

“Such a ban reaches beyond the prohibition of argument in opening statements.” (68 S.W.3d at 395)

FACTUAL BACKGROUND

Thompson was convicted of second-degree murder and armed criminal action arising from the stabbing death of Lynn Thompson, with whom he lived. The prosecution's case was circumstantial and included evidence that Lynn's body was found in the home's basement, that bloody shoeprints and blood evidence led through the house, and that blood spots matched Thompson's blood. Thompson's counsel sought to preview four exculpatory matters expected to come from cross-examination of State witnesses, including the absence of forensic evidence in Thompson's car and mismatches between Thompson and fingerprints and shoeprints found near the crime scene. The trial court barred those references and effectively limited the defense to a four-line opening statement.

PROCEDURAL HISTORY

A jury convicted Thompson of second-degree murder and armed criminal action, and the circuit court sentenced him to life imprisonment and fifteen years, respectively. The Court of Appeals issued an opinion, after which the Supreme Court of Missouri granted transfer under article V, section 10 of the Missouri Constitution. The Supreme Court reversed and remanded because the trial court improperly barred the defense from referring in opening statement to facts expected to be elicited through cross-examination and the error was prejudicial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the circuit court was reversed and the case remanded. The opinion did not provide more specific remand instructions.

CASES CITED

- Best v. District of Columbia, 291 U.S. 411, 415 (1934)
- Hays v. Missouri Pac. R.R. Co., 304 S.W.2d 800, 804 (Mo. 1957)
- State v. Feger, 340 S.W.2d 716, 724 (Mo. 1960)
- State v. Fleming, 523 S.W.2d 849, 853 (Mo. App. 1975)
- State v. Arrington, 375 S.W.2d 186, 190 (Mo. 1964)
- State v. Hurst, 612 S.W.2d 846, 853 (Mo. App. 1981)
- State v. Ivory, 609 S.W.2d 217, 222 (Mo. App. 1980)
- Rowe v. Farmers Ins. Co., 699 S.W.2d 423, 424-25 (Mo. banc 1985)
- State v. Gardner, 8 S.W.3d 66, 71 (Mo. banc 1999)
- State v. Flaaen, 863 S.W.2d 658, 661 (Mo. App. 1993)
- State v. Nelson, 831 S.W.2d 665, 667 (Mo. App. 1992)
- State v. Gibson, 684 S.W.2d 413, 415 (Mo. App. 1984)
- State v. Bibbs, 634 S.W.2d 499, 501 (Mo. App. 1982)
- State v. Hamilton, 740 S.W.2d 208, 211 (Mo. App. 1987)
- State v. Brooks, 618 S.W.2d 22, 24 (Mo. banc 1981)
- State v. Hall, 982 S.W.2d 675, 680 (Mo. banc 1998)
- State v. Barton, 936 S.W.2d 781, 788 (Mo. banc 1996)