

SUPREME COURT OF WYOMING

Benjamin v. State

264 P.3d 1 (Wyo. 2011); 2011 WY 147 · No. S-10-0204 · Decided October 25, 2011

SUMMARY

The Supreme Court of Wyoming affirmed Leah D. Benjamin's conviction for second-degree murder in the shooting death of her estranged husband. The court rejected challenges concerning juror implied bias, proposed jury instructions based on the Eagan Rule, and the denial of a post-trial motion for judgment of acquittal; the provided text ends before the court's discussion of the self-defense issue is complete.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Burke, Justice; Kite, C.J.; Golden, J.; Hill, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	October 25, 2011
DOCKET	S-10-0204
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a second-degree murder conviction and a twenty-to-thirty-year prison sentence following a jury trial.
STANDARD OF REVIEW	The court reviewed the denial of the late request to remove a juror for abuse of discretion; unpreserved claims for plain error; preserved prosecutorial-misconduct claims for harmless error; jury-instruction decisions with significant deference; and denial of the motion for judgment of acquittal by examining whether substantial evidence supported each element and accepting the State's evidence and reasonable inferences as true.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Leah D. Benjamin v. State of Wyoming

TOPICS

- jury selection
- jury instructions
- self defense
- prosecutorial misconduct
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred by denying Benjamin's late request to remove juror Blaney, who was married to a prosecution consultant.
2. Whether the district court erred by refusing Benjamin's proposed jury instructions based on the Eagan Rule concerning the testimony of an accused who is the sole eyewitness.
3. Whether the evidence was insufficient to disprove self-defense and required judgment of acquittal under W.R.Cr.P. 29(c).
4. Whether alleged prosecutorial misconduct during voir dire, opening statement, and closing argument deprived Benjamin of a fair trial or constituted reversible error.

HOLDINGS

1. The district court did not abuse its discretion by denying Benjamin's late request to remove juror Blaney. Benjamin waived any objection to Blaney's service during voir dire, and the circumstances observed during trial did not sufficiently change to require reconsideration of that waiver.
2. The district court properly refused Benjamin's proposed instructions stating that a defendant's testimony as the sole witness to the charged transaction must be accepted under specified circumstances. The Eagan Rule did not apply because Benjamin's credibility had been impeached and her testimony was inconsistent with physical evidence.
3. The district court properly denied Benjamin's motion for judgment of acquittal because the State presented sufficient evidence from which a reasonable jury could find beyond a reasonable doubt that Benjamin did not act in self-defense.
4. The alleged prosecutorial comments during voir dire, opening statement, and closing argument did not constitute reversible prosecutorial misconduct. The preserved comments were harmless, and the unpreserved claims did not satisfy plain-error review.

KEY QUOTATIONS

"The lesson we take from these cases is that not every question involving implied bias is subject to de novo review on appeal. The proper standard of review must be adapted to fit the context in which the question is presented." (264 P.3d at 8-9)

"The evidence viewed in this way was sufficient to disprove that Ms. Benjamin acted in self-defense." (264 P.3d at 13)

"Individually and collectively, the instances pointed out by Ms. Benjamin do not constitute prosecutorial misconduct." (264 P.3d at 18)

FACTUAL BACKGROUND

Leah Benjamin shot her estranged husband, Donald Benjamin, three times at her home after repeatedly contacting him and misleading him about their daughter being present to go fishing. Benjamin claimed self-defense and testified that Donald shoved her, grabbed at her pistol, and attempted to turn it on her. Physical and other circumstantial evidence contradicted portions of her account, including the absence of gunpowder residue on Donald and evidence that the shower door had been shattered by a bullet. Benjamin waited approximately sixteen hours before reporting the shooting to police and engaged in cleanup and other conduct after the shooting.

PROCEDURAL HISTORY

Benjamin was charged with first-degree murder after shooting and killing her estranged husband. The jury acquitted her of first-degree murder but convicted her of the lesser-included offense of second-degree murder and rejected her self-defense claim. The district court denied her post-trial motion for judgment of acquittal, and the Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Irvin v. Dowd, 366 U.S. 717, 722, 81 S. Ct. 1639, 1642, 6 L. Ed. 2d 751, 755 (1961)
- Collins v. State, 589 P.2d 1283, 1289 (Wyo. 1979)
- Ristaino v. Ross, 424 U.S. 589, 595 n. 6, 96 S. Ct. 1017, 1020 n. 6, 47 L. Ed. 2d 258, 263 (1976)
- Wainwright v. Witt, 469 U.S. 412, 423, 105 S. Ct. 844, 852, 83 L. Ed. 2d 841, 851 (1985)
- United States v. Wood, 299 U.S. 123, 145, 57 S. Ct. 177, 185, 81 L. Ed. 78, 88 (1936)
- Miller v. State, 904 P.2d 344, 351-53 (Wyo. 1995)
- Smith v. State, 2008 WY 98, ¶ 29, 190 P.3d 522, 531-32 (Wyo. 2008)
- State v. Dobbs, 70 Wyo. 26, 244 P.2d 280, 282 (Wyo. 1952)
- Lee v. State, 743 P.2d 296, 299 (Wyo. 1987)
- Majors v. State, 2011 WY 63, ¶¶ 15, 21, 252 P.3d 435, 440-41 (Wyo. 2011)
- Kerns v. State, 920 P.2d 632, 635 (Wyo. 1996)
- Gruwell v. State, 2011 WY 67, ¶ 25, 254 P.3d 223, 231 (Wyo. 2011)
- Seward v. State, 2003 WY 116, ¶ 32, 76 P.3d 805, 819 (Wyo. 2003)
- Breazeale v. State, 2011 WY 10, ¶ 30, 245 P.3d 834, 843 (Wyo. 2011)
- Farmer v. State, 2005 WY 162, ¶ 20, 124 P.3d 699, 706 (Wyo. 2005)
- Roden v. State, 2007 WY 200, ¶ 21, 173 P.3d 369, 375 (Wyo. 2007)
- Duke v. State, 2004 WY 120, ¶ 90, 99 P.3d 928, 954 (Wyo. 2004)
- Eagan v. State, 58 Wyo. 167, 198, 128 P.2d 215, 226 (1942)
- Butcher v. State, 2005 WY 146, ¶ 25, 123 P.3d 543, 551 (Wyo. 2005)
- Chavez v. State, 601 P.2d 166, 170 (Wyo. 1979)

- *Najera v. State*, 2009 WY 105, ¶ 5, 214 P.3d 990, 992 (Wyo. 2009)
- *Martin v. State*, 2007 WY 2, ¶ 32, 149 P.3d 707, 715 (Wyo. 2007)
- *Olson v. State*, 960 P.2d 1019, 1021 (Wyo. 1998)
- *MacGuire v. Harrisclope Broadcasting Co.*, 612 P.2d 830, 843 (Wyo. 1980)
- *Widener v. Pacific Gas & Electric Co.*, 75 Cal. App. 3d 415, 435, 142 Cal. Rptr. 304, 314 (1977)
- *McCoy v. Hearst Corp.*, 42 Cal. 3d 835, 846 n. 9, 231 Cal. Rptr. 518, 525 n. 9, 727 P.2d 711, 719 n. 9 (1986)
- *Schreibvogel v. State*, 2010 WY 45, ¶ 39, 228 P.3d 874, 887 (Wyo. 2010)
- *Mazurek v. State*, 10 P.3d 531, 542 (Wyo. 2000)
- *Harris v. State*, 2008 WY 23, ¶ 12, 177 P.3d 1166, 1170 (Wyo. 2008)
- *Person v. State*, 2004 WY 149, ¶ 33, 100 P.3d 1270, 1286 (Wyo. 2004)
- *Teniente v. State*, 2007 WY 165, ¶ 10, 169 P.3d 512, 520 (Wyo. 2007)
- *Sweet v. State*, 2010 WY 87, ¶ 41, 234 P.3d 1193, 1207 (Wyo. 2010)
- *Commonwealth v. Beavers*, 492 Pa. 522, 424 A.2d 1313, 1315 (1981)
- *Condra v. State*, 2004 WY 131, ¶ 22, 100 P.3d 386, 392 (Wyo. 2004)
- *Seyle v. State*, 584 P.2d 1081, 1087 (Wyo. 1978)