

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Le

No. 756 CAP, 757 CAP, 758 CAP, Supreme Court of Pennsylvania (May 31, 2019)

SUMMARY

In this direct capital appeal, the Pennsylvania Supreme Court affirmed the defendant's death sentence for two first-degree murders, holding that the evidence was sufficient to support conviction as a conspirator/accomplice. The court held that the trial court properly prohibited voir dire questions about the defendant's prior manslaughter conviction under **Commonwealth v. Smith**, and that the death penalty statute is not unconstitutional under **Apprendi**/**Ring**/**Hurst** because the weighing of aggravating and mitigating circumstances is a moral judgment, not a factual finding requiring proof beyond a reasonable doubt. The court also found that challenges to the admission of cell phone records, prosecutor's statements, and victim impact evidence were either waived or without merit.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Todd; Saylor; Baer; Donohue; Dougherty; Wecht; Mundy
JURISDICTION	Pennsylvania
DECIDED	May 31, 2019
DOCKET	756 CAP, 757 CAP, 758 CAP
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from judgment of sentence of death
STANDARD OF REVIEW	For sufficiency of evidence, we review whether the evidence admitted at trial, and all reasonable inferences, viewed in favor of the Commonwealth, supports the jury's finding of all elements beyond a reasonable doubt. For evidentiary rulings, abuse of discretion. For voir dire, abuse of discretion.
PRECEDENTIAL VALUE	Published
PARTIES	Tam M. Le v. Commonwealth of Pennsylvania

TOPICS

- criminal procedure
- sentencing
- evidence
- constitutional law
- due process

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support the first-degree murder convictions.
2. Whether the trial court erred in admitting cell phone records under the business records exception.
3. Whether the trial court erred in prohibiting defense counsel from questioning potential jurors about Appellant's prior manslaughter conviction during voir dire.
4. Whether the trial court erred in denying a mistrial after the prosecutor asked an expert witness about the length of the appellate process.
5. Whether the prosecutor's statements during closing argument misstated the law regarding weighing of aggravating and mitigating circumstances.
6. Whether the trial court erred in excluding a portion of the victim impact statement that expressed no preference between life and death.
7. Whether Pennsylvania's death penalty statute violates the Fifth, Sixth, and Fourteenth Amendments by not requiring proof beyond a reasonable doubt that aggravating circumstances outweigh mitigating circumstances.
8. Whether the death penalty is administered in an arbitrary and capricious manner.

HOLDINGS

1. The evidence was sufficient to support the first-degree murder convictions as a conspirator and/or accomplice.
2. Appellant waived his objection to the admission of cell phone records by failing to lodge a specific objection at trial regarding the identity of the preparers and the timing of preparation.
3. The trial court did not err in prohibiting defense counsel from questioning potential jurors about Appellant's prior manslaughter conviction, as such questioning was impermissible under Bomar and Smith.
4. Appellant waived this claim by failing to request a mistrial based on that specific question at trial.
5. Appellant waived these claims by failing to request a mistrial or further curative instructions after the trial court sustained objections.
6. The trial court did not err in excluding the portion of the victim impact statement that expressed no preference between life and death, as it was not relevant to the impact of the victim's death and was impermissible under Bomar.
7. Pennsylvania's death penalty statute does not require the jury to find that aggravating circumstances outweigh mitigating circumstances beyond a reasonable doubt, as the weighing process is a moral judgment, not a factual finding.
8. Appellant waived this claim by failing to raise it in the trial court.

KEY QUOTATIONS

“The purpose of voir dire is solely to ensure the empanelling of a competent, fair, impartial, and unprejudiced

jury capable of following the instructions of the trial court.” (17)

“The weighing process is not a factual determination, but, rather, a 'complex moral judgment.'” (28)

“The State cannot now treat the advisory recommendation by the jury as the necessary factual finding that Ring requires.” (29)

FACTUAL BACKGROUND

On August 26, 2014, Tan Voong received calls from Kevin Huynh asking to borrow money. Voong brought \$40,000 to Appellant's house, where he saw Kevin and Viet Huynh bound and bleeding in the garage. Voong was beaten, and all three were taken to the Schuylkill River, where they were stabbed and thrown in. Voong survived and identified Appellant. The bodies of Kevin and Viet were found with multiple stab wounds, bound with duct tape and chains attached to buckets of roof cement. Evidence at Appellant's home including duct tape with the victims' DNA linked Appellant to the crimes.

PROCEDURAL HISTORY

Appellant was convicted by a jury of two counts of first-degree murder, attempted murder, kidnapping, robbery, and conspiracy in the Philadelphia County Court of Common Pleas. The trial court imposed death sentences for the murders and consecutive sentences for other offenses. Appellant filed a direct appeal to the Supreme Court of Pennsylvania.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Poplawski, 130 A.3d 697 (Pa. 2015)
- Commonwealth v. Smith, 985 A.2d 886 (Pa. 2009)
- Commonwealth v. Johnson, 985 A.3d 915 (Pa. 2009)
- Commonwealth v. Spatz, 716 A.2d 580 (Pa. 1998)
- Commonwealth v. Reid, 99 A.3d 470 (Pa. 2014)
- Commonwealth v. Carson, 913 A.2d 220 (Pa. 2006)
- Commonwealth v. Cash, 137 A.3d 1262 (Pa. 2016)
- Commonwealth v. Ali, 10 A.3d 282 (Pa. 2010)
- Morgan v. Illinois, 504 U.S. 719 (1992)
- Lockhart v. McCree, 476 U.S. 162 (1986)
- Commonwealth v. Bomar, 826 A.2d 831 (Pa. 2003)
- Commonwealth v. Smith, 131 A.3d 467 (Pa. 2015)
- United States v. Johnson, 366 F. Supp. 2d 822 (N.D. Iowa 2005)
- People v. Cash, 50 P.3d 332 (Cal. 2002)

- Commonwealth v. Mattison, 82 A.3d 386 (Pa. 2013)
- Commonwealth v. Moore, 103 A.3d 1240 (Pa. 2014)
- Commonwealth v. Capitolo, 498 A.2d 806 (Pa. 1985)
- Commonwealth v. Jones, 460 A.2d 739 (Pa. 1983)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Alleyne v. United States, 570 U.S. 99 (2013)
- Commonwealth v. Roney, 866 A.2d 351 (Pa. 2005)
- Commonwealth v. Sanchez, 82 A.3d 943 (Pa. 2013)
- Commonwealth v. Wholaver, 177 A.3d 136 (Pa. 2018)
- Hurst v. Florida, 136 S. Ct. 616 (2016)
- United States v. Gabrion, 648 F.3d 307 (6th Cir. 2001)
- United States v. Gabrion, 719 F.3d 511 (6th Cir. 2013) (en banc)
- Commonwealth v. Ballard, 80 A.3d 380 (Pa. 2013)
- Commonwealth v. Bronshtein, 691 A.2d 907 (Pa. 1997)
- Commonwealth v. Zettlemoyer, 454 A.2d 927 (Pa. 1982)
- Balentine v. Chester Water Auth., 191 A.3d 799 (Pa. 2018)
- Commonwealth v. Bridges, 757 A.2d 859 (Pa. 2000)