

SUPREME COURT OF CONNECTICUT

State v. Allen, 289 Conn. 550

958 A.2d 1214 (2008) · No. No. 17701 · Decided November 25, 2008

SUMMARY

The Connecticut Supreme Court affirmed Anthony Allen’s convictions for capital felony, murder, conspiracy to commit murder, attempted first-degree assault, and conspiracy to commit first-degree assault arising from the shooting death of a fifteen-year-old victim. The court held that the evidence was sufficient, that a letter written by Allen was properly admitted, and that the trial court properly declined to poll the jury under the circumstances. The court also rejected Allen’s constitutional challenge to a sentence of life imprisonment without the possibility of release for a defendant who was seventeen at the time of the offense.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Katz, J.; Rogers, C.J.; Norcott, J.; Palmer, J.; Vertefeuille, J.
JURISDICTION	Connecticut
DECIDED	November 25, 2008
DOCKET	No. 17701
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction for capital felony, murder, conspiracy to commit murder, attempt to commit assault in the first degree, and conspiracy to commit assault in the first degree.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed under a two-part test: the evidence is construed in the light most favorable to sustaining the verdict, and the court determines whether the jury reasonably could have found guilt beyond a reasonable doubt from the cumulative force of the evidence. Evidentiary rulings are reviewed for abuse of discretion, including the determination whether probative value is outweighed by unfair prejudice. The timeliness and legal effect of a jury-polling request are reviewed under Practice Book § 42-31 and applicable waiver principles. The unpreserved constitutional sentencing claim was reviewed under State v. Golding.
PRECEDENTIAL VALUE	Published opinion; precedential

TOPICS

criminal procedure

evidence

jury selection

sentencing

cruel and unusual punishment

PRACTICE AREAS

criminal law

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juvenile sentencing

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Allen's convictions, including the state's proof that he was involved as an accessory even though the evidence did not establish that he fired the fatal shot.
2. Whether the trial court improperly admitted Allen's letter to his girlfriend on the ground that its probative value was outweighed by unfair prejudice.
3. Whether the trial court violated Practice Book § 42-31 by denying Allen's request to poll the jury after the jury's verdict had been accepted and while it continued deliberating on codefendant Amos's case.
4. Whether imposing life imprisonment without the possibility of release on a defendant who was under eighteen when he committed a capital felony violated the Eighth Amendment.

HOLDINGS

1. The evidence was sufficient to support Allen's convictions because the jury reasonably could credit eyewitness testimony identifying him as one of the shooters and could reconcile inconsistencies in the witnesses' prior statements and the forensic evidence. Because Allen was charged as an accessory, the state was not required to prove that he, rather than the other shooter, fired the fatal shot.
2. The trial court did not abuse its discretion by admitting the letter because it was highly probative of Allen's motive, intent, and steps toward carrying out the shooting, and its probative value was not outweighed by unfair prejudice.
3. When codefendants are tried together and the jury returns and the court accepts a verdict as to one defendant before continuing deliberations on another defendant's case, the first defendant must request a jury poll before the jury resumes deliberations on the remaining codefendant's case. Allen's request was untimely and ineffective because counsel failed to request the poll when the jury's verdict was accepted, failed to request recall after the state withdrew the sentence-enhancement charge, and did not ensure Allen's presence or establish a waiver of his presence when requesting the poll the next morning.
4. The Eighth Amendment does not prohibit imposing life imprisonment without the possibility of release on a defendant who was under eighteen when he committed a capital felony; *Roper v. Simmons* does not extend its categorical prohibition on juvenile executions to this sentence.

KEY QUOTATIONS

"Rather, discharge of the jury is triggered 'by the separation and dispersal of its individual members.'" (289 Conn. at 568; 958 A.2d at 1229)

“Therefore, when, as in the present case, the jury informs the court that it has reached a verdict in one defendant's case but still requires additional time in which to deliberate on the remaining codefendant's case, following the court's acceptance of the verdict, the defendant must request a poll before the jury resumes its deliberations.” (289 Conn. at 571; 958 A.2d at 1231)

“The eighth amendment affords heightened significance to the “diminished culpability” of juveniles, but the reasoning of Roper does not extend to the present case.” (289 Conn. at 580; 958 A.2d at 1236)

FACTUAL BACKGROUND

Seventeen-year-old Anthony Allen was charged in connection with the February 22, 2005 shooting death of fifteen-year-old Lorenzo Morgan Rowe after a high school basketball game. Witnesses testified that Allen and Kevin Amos followed a group that included the victim and the Weaver brothers, and that Allen and Amos were identified as two of the shooters. Allen presented alibi witnesses, while the state introduced, among other evidence, a letter Allen wrote from pretrial detention describing his intent to kill two Weaver brothers and his approach with a gun. The jury convicted Allen on all five counts, and the trial court imposed life imprisonment without the possibility of release.

PROCEDURAL HISTORY

The defendant and Kevin Amos were charged in connection with the fatal shooting of Lorenzo Morgan Rowe, and their cases were consolidated for trial. A jury convicted Allen on all five counts but could not reach a unanimous verdict as to Amos, resulting in a mistrial in Amos's case. Because Allen was seventeen at the time of the capital felony, the trial court imposed a total effective sentence of life imprisonment without the possibility of release. Allen directly appealed to the Supreme Court of Connecticut.

DISPOSITION

affirmed

CASES CITED

- State v. Silva, 285 Conn. 447, 454, 939 A.2d 581 (2008)
- State v. Hamlett, 105 Conn. App. 862, 866-67, 939 A.2d 1256, cert. denied, 287 Conn. 901, 947 A.2d 343 (2008)
- State v. Mullins, 288 Conn. 345, 365, 952 A.2d 784 (2008)
- State v. Amarillo, 198 Conn. 285, 289, 503 A.2d 146 (1986)
- State v. Myers, 193 Conn. 457, 473, 479 A.2d 199 (1984)
- State v. Prioleau, 235 Conn. 274, 305, 664 A.2d 743 (1995)
- State v. Burney, 288 Conn. 548, 565-66, 954 A.2d 793 (2008)
- State v. Ferguson, 260 Conn. 339, 359, 796 A.2d 1118 (2002)
- State v. Rinaldi, 220 Conn. 345, 355, 599 A.2d 1 (1991)
- State v. Graham, 200 Conn. 9, 12-14, 509 A.2d 493 (1986)

- State v. McCarthy, 197 Conn. 166, 173, 496 A.2d 190 (1985)
- State v. Pappas, 256 Conn. 854, 888, 776 A.2d 1091 (2001)
- State v. DeMatteo, 186 Conn. 696, 702-03, 443 A.2d 915 (1982)
- State v. Copas, 252 Conn. 318, 329-30, 746 A.2d 761 (2000)
- State v. Robertson, 254 Conn. 739, 758, 760 A.2d 82 (2000)
- State v. Pare, 253 Conn. 611, 623, 625-36, 755 A.2d 180 (2000)
- State v. Lopez, 52 Conn. App. 176, 180-82, 726 A.2d 620, cert. denied, 248 Conn. 917, 734 A.2d 568 (1999)
- State v. Murray, 254 Conn. 472, 495, 757 A.2d 578 (2000)
- State v. J.R., 69 Conn. App. 767, 771, 797 A.2d 560, cert. denied, 260 Conn. 935, 802 A.2d 89 (2002)
- State v. Lopez, 271 Conn. 724, 732, 859 A.2d 898 (2004)
- Roper v. Simmons, 543 U.S. 551, 566-68, 578, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005)
- Wallace v. State, 956 A.2d 630, 2008 WL 2952064 (Del. Aug. 1, 2008)
- United States v. Salahuddin, 509 F.3d 858, 864 (7th Cir. 2007)
- United States v. Feemster, 483 F.3d 583, 588 (8th Cir. 2007)
- Estelle v. Gamble, 429 U.S. 97, 101, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976)
- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- State v. Geisler, 222 Conn. 672, 684-86, 610 A.2d 1225 (1992)
- State v. T.R.D., 286 Conn. 191, 207 n.14, 942 A.2d 1000 (2008)