

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. DeJohn, 486 Pa. 32

403 A.2d 1283 (1979) · Decided May 17, 1979

SUMMARY

The Supreme Court of Pennsylvania reviewed Jill V. DeJohn's convictions for third-degree murder and attempted theft by extortion. The court held that the circumstantial evidence was sufficient to support the murder conviction, but that the appellant had a reasonable expectation of privacy in bank records under Article I, Section 8 of the Pennsylvania Constitution and could challenge records obtained through invalid subpoenas. It reversed the murder judgment of sentence while affirming the judgment of sentence for attempted theft by extortion.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	O'Brien, Justice; Eagen, C.J.; O'Brien, J.; Roberts, J.; Pomeroy, J.; Nix, J.; Manderino, J.; Larsen, J.
JURISDICTION	Pennsylvania
DECIDED	May 17, 1979
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from convictions and judgments of sentence for third-degree murder and attempted theft by extortion.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed by considering all evidence and reasonable inferences in the light most favorable to the Commonwealth, while requiring proof beyond a reasonable doubt. The suppression issue was reviewed as a constitutional question concerning privacy and standing under Article I, Section 8, of the Pennsylvania Constitution.
PRECEDENTIAL VALUE	published precedential decision of the Supreme Court of Pennsylvania
PARTIES	Jill V. DeJohn v. Commonwealth of Pennsylvania

TOPICS

- search and seizure
- fourth amendment
- suppression of evidence
- criminal procedure
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circumstantial evidence was sufficient to sustain DeJohn's third-degree murder conviction.
2. Whether DeJohn had a reasonable expectation of privacy under Article I, Section 8, of the Pennsylvania Constitution in bank records pertaining to her affairs.
3. Whether bank records obtained through invalid subpoenas issued without judicial process should have been suppressed.
4. Whether admission of the unlawfully obtained bank records was harmless as to the murder conviction.
5. Whether the attempted theft by extortion conviction should be disturbed when the seized check was not introduced at that nonjury trial and no fruit-of-the-poisonous-tree claim was pursued on appeal.

HOLDINGS

1. The circumstantial evidence, viewed in the light most favorable to the Commonwealth and together with reasonable inferences, was sufficient to establish DeJohn's guilt beyond a reasonable doubt.
2. Article I, Section 8, of the Pennsylvania Constitution protects a bank customer's legitimate expectation of privacy in records pertaining to the customer's affairs kept by the bank.
3. Because the bank records were obtained through invalid subpoenas issued without judicial process while no proceeding was pending, DeJohn had standing to challenge their admission and the records should have been suppressed.
4. Admission of the unlawfully obtained bank evidence was not harmless as to the murder conviction because the evidence was introduced to establish motive.
5. The attempted theft by extortion conviction was affirmed because the illegally seized check was not introduced at that trial, DeJohn did not object to the reference to the check, and she did not advance a fruit-of-the-poisonous-tree argument on appeal.

KEY QUOTATIONS

"We are convinced that under Art. I, § 8, of the Pennsylvania Constitution bank customers have a legitimate expectation of privacy in records pertaining to their affairs kept at the bank." (486 Pa. at 49)

"If the conviction is based wholly on inferences, suspicion and conjecture, it cannot stand." (486 Pa. at 38)

FACTUAL BACKGROUND

Jill DeJohn's husband was found shot in the garage of the couple's home after his automobile was seen arriving shortly after 6:00 p.m. The prosecution presented circumstantial evidence concerning DeJohn's financial difficulties, attempted extortion, access to a .25-caliber pistol, and potential insurance motive. During the investigation, police obtained DeJohn's bank records through subpoenas issued by the district attorney without judicial review or an underlying pending proceeding; those records included a check used to purchase a typewriter associated with an extortion note.

PROCEDURAL HISTORY

DeJohn was convicted by a jury of third-degree murder and, in a subsequent nonjury trial, of attempted theft by extortion. The trial court denied post-verdict motions and imposed concurrent prison terms. The Pennsylvania Supreme Court reversed the murder judgment and remanded for a new trial, but affirmed the attempted-theft-by-extortion judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of sentence for third-degree murder at No. 184 March Term, 1977 was reversed and the case was remanded for a new trial. The judgment of sentence for attempted theft by extortion at No. 192 March Term, 1977 was affirmed.

CASES CITED

- Commonwealth v. Long, 470 Pa. 204, 368 A.2d 265 (1977)
- Commonwealth v. Simpson, 436 Pa. 459, 260 A.2d 751 (1970)
- United States v. Miller, 425 U.S. 435, 96 S. Ct. 1619, 48 L. Ed. 2d 71 (1976)
- Katz v. United States, 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967)
- Commonwealth v. White, 459 Pa. 84, 327 A.2d 40 (1974)
- Commonwealth v. Platou, 455 Pa. 258, 312 A.2d 29 (1973), cert. denied, 417 U.S. 976 (1974)
- Burrows v. Superior Court of San Bernardino County, 13 Cal. 3d 238, 118 Cal. Rptr. 166, 529 P.2d 590 (1974)
- Commonwealth v. Polak, 438 Pa. 67, 263 A.2d 354 (1970)
- Commonwealth v. Harris, 429 Pa. 215, 239 A.2d 290 (1968)
- Rakas v. Illinois, 439 U.S. 128, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978)
- Commonwealth v. Stanley, 484 Pa. 2, 398 A.2d 631 (1979)
- Commonwealth v. Roman, 465 Pa. 515, 351 A.2d 214 (1976)
- Commonwealth v. Finley, 477 Pa. 382, 383 A.2d 1259 (1978)
- Commonwealth v. Leach, 455 Pa. 448, 317 A.2d 293 (1974)
- Commonwealth v. Pierce, 437 Pa. 266, 263 A.2d 350 (1970)
- Commonwealth v. Giovanetti, 341 Pa. 345, 19 A.2d 119 (1941)