

SUPREME COURT OF FLORIDA

Castor v. State

365 So. 2d 701 (Fla. 1978) · No. No. 52873 · Decided December 19, 1978

SUMMARY

The Supreme Court of Florida held that when a jury requests additional instructions after having been fully instructed, an appellate court will not review an alleged reinstruction error unless the defendant made a timely and explicit objection. The court concluded that counsel's general request for instructions did not preserve an objection to the omission of justifiable and excusable homicide instructions. The court affirmed the district court's decision and discharged the writ.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	England, Chief Justice; Boyd; Overton; Hatchett; Alderman
JURISDICTION	Florida
DECIDED	December 19, 1978
DOCKET	No. 52873
DISPOSITION	affirmed
PROCEDURAL POSTURE	Castor sought review of a decision of the First District Court of Appeal affirming his murder conviction after declining to review an allegedly erroneous jury re-instruction because the error was not preserved by a timely and explicit objection.
STANDARD OF REVIEW	Preservation of jury-instruction error for appellate review; unpreserved error is reviewable only if it constitutes fundamental error.
PRECEDENTIAL VALUE	Published opinion; binding Florida Supreme Court precedent on preservation of alleged jury re-instruction error.
PARTIES	Charles Castor v. State of Florida

TOPICS

- jury instructions
- instructions objections
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- appellate procedure
- jury instructions

QUESTIONS PRESENTED

1. Whether an appellate court may review an alleged omission from a jury re-instruction when defense counsel did not make a timely and explicit objection.
2. Whether the trial court's failure to repeat the justifiable and excusable homicide instructions during the requested re-instruction constituted fundamental error.
3. Whether Castor's sentence was invalid because it was imposed by a judge different from the judge who presided over the trial.

HOLDINGS

1. When a jury has previously been fully instructed on the applicable law and later requests additional instructions, an appellate court will not review an alleged error in the re-instruction unless the defendant made a timely and explicit objection directing the trial judge to the claimed error.
2. The omission of justifiable and excusable homicide from a requested re-instruction was not fundamental error on the facts presented because the jury had previously received complete instructions and the omission was a non-fundamental, preservable error.
3. Castor's challenge to the validity of his sentence based on its imposition by a judge different from the judge who presided over trial lacked merit.

KEY QUOTATIONS

“The giving of a partial instruction fails to inform the jury fully and often leads to undue emphasis on the part given as against the part omitted.” (at 702)

“For the case before us, we hold that where a jury has once been fully instructed on the applicable law of the case and later requests additional instructions, an appellate court will not review an alleged re-instruction error unless a timely and explicit objection is made to the trial judge.” (at 704)

FACTUAL BACKGROUND

Castor was charged with second-degree murder. The trial court initially instructed the jury on second- and third-degree murder, manslaughter, lesser included offenses, justifiable and excusable homicide, and self-defense. When the jury later requested that the definitions of second-degree murder, third-degree murder, and manslaughter be read again, the court re-instructed on those offenses and lesser included offenses but did not repeat the justifiable and excusable homicide instructions. Castor's counsel did not explicitly object before or after the re-instruction.

PROCEDURAL HISTORY

Castor was charged with second-degree murder and convicted of third-degree murder. After the jury requested re-instruction on the degrees of homicide and manslaughter, the trial court re-instructed on those offenses and lesser included offenses but omitted justifiable and excusable homicide. The First District Court of Appeal held that the issue was not properly preserved and affirmed. The Supreme Court of Florida accepted review, affirmed the district court, and discharged the writ.

DISPOSITION

affirmed

CASES CITED

- Hedges v. State, 172 So. 2d 824 (Fla. 1965)
- Dorminey v. State, 314 So. 2d 134 (Fla. 1975)
- Febre v. State, 158 Fla. 853, 30 So. 2d 367 (1947)
- Williams v. State, 285 So. 2d 13 (Fla. 1973)
- Rivers v. State, 307 So. 2d 826 (Fla. 1st DCA), cert. denied, 316 So. 2d 285 (Fla. 1975)
- York v. State, 232 So. 2d 767 (Fla. 4th DCA 1969)
- Bagley v. State, 119 So. 2d 400 (Fla. 1st DCA 1960)
- Brown v. State, 124 So. 2d 481 (Fla. 1960)
- Jackson v. State, 307 So. 2d 232 (Fla. 4th DCA 1975)
- Henry v. State, 359 So. 2d 864 (Fla. 1978)
- Clark v. State, 363 So. 2d 331 (Fla. 1978)