

SUPREME COURT OF NORTH CAROLINA

State v. Locklear, 363 N.C. 438

681 S.E.2d 293 (2009) · No. No. 578A05 · Decided August 28, 2009

SUMMARY

The Supreme Court of North Carolina affirmed defendant Dane Locklear Jr.'s convictions for first-degree murder and related offenses, finding no reversible error in the guilt-innocence phase. The court held that evidence concerning a separate murder was admissible under North Carolina Rule of Evidence 404(b), and that Confrontation Clause violations involving non-testifying forensic witnesses were harmless beyond a reasonable doubt. The court vacated the death sentence and remanded for a new sentencing hearing.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Timmons-Goodson, Justice; Martin, Justice; Brady, Justice; Newby, Justice
JURISDICTION	North Carolina
DECIDED	August 28, 2009
DOCKET	No. 578A05
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his capital murder conviction directly to the Supreme Court of North Carolina and obtained a bypass of the Court of Appeals for his other convictions. He challenged evidentiary rulings, jury instructions, ineffective assistance, judicial recusal, jury selection, and sentencing proceedings.
STANDARD OF REVIEW	Evidentiary rulings under Rule 404(b) and Rule 403 were reviewed under the applicable relevance and abuse-of-discretion standards. Unpreserved evidentiary claims were reviewed for plain error. Constitutional Confrontation Clause error was reviewed for harmlessness beyond a reasonable doubt. Ineffective-assistance claims required proof of deficient performance and prejudice. Jury-instruction claims were reviewed for whether the requested instruction was correct, supported by the evidence, and whether the omission prejudiced defendant.

PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of North Carolina.
PARTIES	Dane Locklear, Jr. v. State of North Carolina

TOPICS

sentencing evidence character evidence sixth amendment criminal procedure

PRACTICE AREAS

criminal procedure evidence constitutional law capital sentencing appellate procedure

QUESTIONS PRESENTED

1. Whether evidence of defendant's prior killing of Cynthia Wheeler was admissible under North Carolina Rule of Evidence 404(b), despite the offenses having been tried separately.
2. Whether admission of evidence concerning defendant's prior convictions and drug-related conduct constituted reversible error.
3. Whether admission of autopsy and dental-identification opinions through a nontestifying pathologist and dentist violated the Sixth Amendment Confrontation Clause and, if so, whether the error was harmless beyond a reasonable doubt.
4. Whether redirect examination concerning a letter allegedly sent by defendant was properly admitted to rebut impeachment evidence.
5. Whether defendant was entitled to a second-degree-murder instruction.
6. Whether felonious assault could serve as the underlying felony for felony murder.
7. Whether defendant received ineffective assistance of counsel based on alleged disclosure of privileged information and delay.
8. Whether the trial judge should have recused himself.
9. Whether alleged jury-selection errors required a new trial or new sentencing hearing.
10. Whether the trial court was required to instruct the jury that a finding of mental retardation would result in life imprisonment without parole.
11. Whether North Carolina's short-form murder indictment was constitutionally valid.

HOLDINGS

1. The trial court properly admitted evidence of defendant's prior murder of Cynthia Wheeler because the evidence was relevant to purposes other than propensity, including motive, intent, knowledge, plan, opportunity, and modus operandi, and the offenses shared significant similarities.
2. Admission of forensic opinions concerning Wheeler's cause of death and identification of her remains, through testimony by a different witness, violated defendant's Sixth Amendment right to confront the witnesses against him.

3. Defendant was not entitled to an instruction on second-degree murder because the evidence supported premeditation and deliberation and did not negate those elements.
4. In a capital case where the jury considers whether the defendant is mentally retarded, the trial court must instruct, when properly requested, that a finding of mental retardation makes the case noncapital and results in a sentence of life imprisonment without parole. The trial court's failure to give that instruction prejudiced defendant.
5. North Carolina's short-form indictment for first-degree murder was constitutionally valid.

KEY QUOTATIONS

"We conclude the trial court erred in refusing to give defendant's requested instruction, and that defendant was prejudiced thereby. We therefore remand for a new sentencing hearing." (at 310-11)

"Thus, like a defendant who interposes an insanity defense, a defendant asserting mental retardation is entitled to an instruction by the trial court regarding punishment" (at 313)

"On remand, the trial court should instruct the jury in compliance with N.C.G.S. § 15A-2005(e) that "[i]f the jury determines the defendant to be mentally retarded, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment."" (at 314)

FACTUAL BACKGROUND

Frances Singh Persad was found dead in her burned home after suffering blunt-force injuries and carbon monoxide poisoning. Evidence showed that defendant had been with Persad shortly before her death, possessed or sold her shotgun, drove and later burned her Mustang, and confessed to beating her and setting the house on fire. Defendant also confessed to the earlier killing of Cynthia Wheeler, whose burned vehicle and remains were found near the same canal area. At sentencing, defendant presented substantial evidence of intellectual disability, including IQ scores below 70 and adaptive-functioning deficits, but the jury found him not mentally retarded and recommended death.

PROCEDURAL HISTORY

A jury convicted defendant of first-degree murder, misdemeanor larceny, burning personal property, and first-degree arson and found him not mentally retarded. After a capital sentencing proceeding, the jury recommended death. The Supreme Court found no prejudicial error in the guilt-innocence phase, but held that the trial court prejudicially failed to instruct the jury that a finding of mental retardation would result in life imprisonment without parole.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The death sentence was vacated, and the case was remanded to Superior Court, Robeson County, for a new capital sentencing proceeding. On remand, the trial court must instruct the jury that if it determines defendant is mentally retarded, the court must declare the case noncapital and sentence defendant to life imprisonment without parole.

CASES CITED

- State v. Greene, 294 N.C. 418, 241 S.E.2d 662 (1978)
- State v. Cummings, 326 N.C. 298, 389 S.E.2d 66 (1990)
- State v. Corbett, 309 N.C. 382, 307 S.E.2d 139 (1983)
- State v. Chapman, 342 N.C. 330, 464 S.E.2d 661 (1995)
- State v. Coffey, 326 N.C. 268, 389 S.E.2d 48 (1990)
- State v. Bagley, 321 N.C. 201, 362 S.E.2d 244 (1987)
- State v. Stager, 329 N.C. 278, 406 S.E.2d 876 (1991)
- State v. Peterson, 361 N.C. 587, 652 S.E.2d 216 (2007)
- State v. Whaley, 362 N.C. 156, 655 S.E.2d 388 (2008)
- Crawford v. Washington, 541 U.S. 36, 68 (2004)
- Melendez-Diaz v. Massachusetts, 557 U.S. 305, 129 S.Ct. 2527 (2009)
- State v. Lewis, 361 N.C. 541, 648 S.E.2d 824 (2007)
- State v. Johnston, 344 N.C. 596, 476 S.E.2d 289 (1996)
- State v. Strickland, 307 N.C. 274, 298 S.E.2d 645 (1983)
- State v. Conaway, 339 N.C. 487, 453 S.E.2d 824 (1995)
- Beck v. Alabama, 447 U.S. 625, 635 (1980)
- State v. Solomon, 340 N.C. 212, 456 S.E.2d 778 (1995)
- State v. Austin, 320 N.C. 276, 357 S.E.2d 641 (1987)
- State v. Johnson, 317 N.C. 193, 344 S.E.2d 775 (1986)
- Strickland v. Washington, 466 U.S. 668, 694 (1984)
- State v. Prevatte, 356 N.C. 178, 570 S.E.2d 440 (2002)
- State v. Hammonds, 290 N.C. 1, 224 S.E.2d 595 (1976)
- State v. Harris, 306 N.C. 724, 295 S.E.2d 391 (1982)
- State v. Harvell, 334 N.C. 356, 432 S.E.2d 125 (1993)
- Atkins v. Virginia, 536 U.S. 304, 321 (2002)
- State v. Poindexter, 359 N.C. 287, 608 S.E.2d 761 (2005)
- Boyde v. California, 494 U.S. 370, 384 (1990)
- State v. Lamb, 321 N.C. 633, 365 S.E.2d 600 (1987)
- State v. Maness, 363 N.C. 261, 677 S.E.2d 796 (2009)
- State v. Lawrence, 352 N.C. 1, 530 S.E.2d 807 (2000)

