

TWELFTH DISTRICT COURT OF APPEALS OF OHIO

State v. King

2022-Ohio-3178 (Ohio Ct. App. 2022) · No. CA2021-09-116 · Decided September 12, 2022

SUMMARY

The Twelfth District Court of Appeals of Ohio affirmed Mychel King's convictions for aggravated murder and an accompanying firearm specification. The court held that police lawfully seized and photographed a shoe found in plain view on King's front porch, upheld the complicity jury instruction, and rejected King's challenge to complicity liability for the firearm specification. The court also concluded that any error in excluding double-hearsay testimony concerning a possible female accomplice was harmless in light of the evidence of King's involvement.

CASE DETAILS

COURT	Twelfth District Court of Appeals of Ohio
WRITING FOR THE COURT	S. Powell, J.; M. Powell, P.J.; Hendrickson, J.
JURISDICTION	Ohio
DECIDED	September 12, 2022
DOCKET	CA2021-09-116
DISPOSITION	affirmed
PROCEDURAL POSTURE	King appealed his jury convictions and sentence from the Butler County Court of Common Pleas, raising challenges to the denial of his suppression motion, the complicity jury instruction, sentencing on a firearm specification, and the exclusion of double-hearsay testimony.
STANDARD OF REVIEW	Suppression rulings are reviewed under a mixed standard: factual findings are accepted if supported by competent, credible evidence, while legal conclusions are reviewed independently. Jury-instruction claims are reviewed for error or plain error when not preserved. Evidentiary rulings are reviewed for abuse of discretion, subject to harmless-error analysis.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential within the applicable Ohio appellate framework.
PARTIES	Mychel King v. State of Ohio

TOPICS

suppression of evidence

fourth amendment

search and seizure

jury instructions

evidence

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate practice

QUESTIONS PRESENTED

1. Whether detectives' picking up a shoe lying in plain view on King's front porch, turning it over, and photographing its sole constituted a warrantless search requiring probable cause.
2. Whether the trial court plainly erred by giving the jury a complicity instruction.
3. Whether an unarmed accomplice may be sentenced on a firearm specification when a principal offender used a firearm.
4. Whether the trial court erred by excluding an officer's testimony recounting a victim's statement relayed through the victim's deceased brother, and whether any error was harmless.

HOLDINGS

1. Picking up and turning over the shoe to photograph its sole did not transform an object already visible from a lawful vantage point into a search under the Fourth Amendment. The trial court properly denied the motion to suppress.
2. The complicity instruction fairly and correctly stated Ohio law and was substantially identical to the complicity statute, Ohio Jury Instructions, and controlling precedent. The trial court therefore committed neither error nor plain error.
3. An accomplice may be sentenced on a firearm specification even if the accomplice was unarmed and did not personally possess the firearm. The trial court properly imposed the additional consecutive three-year term.
4. The trial court did not commit reversible error by excluding the officer's testimony recounting the victim's alleged statement as relayed through the victim's brother. Any error was harmless because overwhelming evidence established King's guilt and the excluded statement would not have negated his liability as an accomplice or principal.

KEY QUOTATIONS

“The fact that Detective Botts picked up the shoe and turned it over in his hand so that he could take a better photograph of the shoe's sole does not transform what was otherwise in Detectives Smith's and Botts' plain view into something that was not.” (¶ 18)

“The improper exclusion of evidence is harmless where the remaining evidence provides overwhelming proof of a defendant's guilt.” (¶ 30)

FACTUAL BACKGROUND

Knight was shot and killed near a vacant house in Hamilton, Ohio, after being lured there to sell marijuana. The victim's vehicle door handle, found nearby, contained King's fingerprints and DNA, and a size-13 shoe with a distinctive tread matching footprints at the murder scene was found on King's front porch by detectives. King lived within a few blocks of the murder scene and offered shifting explanations to police and at trial, while the state presented testimony that he had confessed and other evidence linking him to the killing.

PROCEDURAL HISTORY

A Butler County grand jury indicted King on nine counts and specifications arising from the shooting death of Jaylon Knight. The trial court denied King's motion to suppress a shoe found on his front porch, conducted a jury trial, and entered guilty verdicts on all charges and specifications. The court merged the offenses and specifications for sentencing and imposed 25 years to life for aggravated murder plus a consecutive three-year firearm-specification term. The appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Turner, 163 Ohio St.3d 421, 2020-Ohio-6773, ¶ 14
- State v. Burnside, 100 Ohio St.3d 152, 2003-Ohio-5372, ¶ 8
- State v. Green, 12th Dist. Fayette No. CA2021-03-009, 2022-Ohio-101, ¶ 7
- State v. Stout, 12th Dist. Butler No. CA2020-08-085, 2021-Ohio-1125, ¶ 11
- State v. Hawkins, 158 Ohio St.3d 94, 2019-Ohio-4210, ¶ 16
- State v. Cochran, 12th Dist. Preble No. CA2006-10-023, 2007-Ohio-3353, ¶ 12
- State v. Banks-Harvey, 152 Ohio St.3d 368, 2018-Ohio-201, ¶ 14
- State v. Tidwell, 165 Ohio St.3d 57, 2021-Ohio-2072, ¶ 18
- Arizona v. Hicks, 480 U.S. 321, 107 S.Ct. 1149 (1987)
- State v. Green, 12th Dist. Warren No. CA2004-11-134, 2005-Ohio-6871, ¶ 21
- State v. Simpson, 7th Dist. Columbiana No. 01 CO 13, 2002-Ohio-1565, ¶ 26
- State v. Simmons, 12th Dist. Warren No. CA2004-11-138, 2005-Ohio-7036, ¶ 21
- State v. Young, 12th Dist. Warren No. CA2014-05-074, 2015-Ohio-1347, ¶ 28
- State v. Hahn, 3d Dist. Henry No. 7-21-02, 2021-Ohio-3789, ¶ 19
- State v. Grievous, 12th Dist. Butler No. CA2018-05-093, 2019-Ohio-1932, ¶ 13
- State v. Johnson, 93 Ohio St.3d 240, 2001-Ohio-1336, syllabus
- State v. Sexton, 12th Dist. Warren No. CA2018-08-100, 2020-Ohio-153, ¶ 7
- State v. Ford, 128 Ohio St.3d 398, 2011-Ohio-765, paragraph one of the syllabus
- State v. Humphries, 8th Dist. Cuyahoga No. 99924, 2014-Ohio-1230, ¶ 18
- State v. Chapman, 21 Ohio St.3d 41, 42 (1986)
- State v. Frost, 164 Ohio App.3d 61, 2005-Ohio-5510, ¶ 20

- State v. Letts, 2d Dist. Montgomery No. 15681, 2001 Ohio App. LEXIS 2749, *9 (June 22, 2001)
- State v. Moore, 7th Dist. Mahoning No. 12 MA 8, 2013-Ohio-1435, ¶ 65
- State v. McLaughlin, 12th Dist. Clinton No. CA2019-02-002, 2020-Ohio-969, ¶ 42
- State v. Gearhart, 12th Dist. Warren No. CA2017-12-168, 2018-Ohio-4180, ¶ 13
- State v. Grindstaff, 12th Dist. Clermont No. CA2013-09-074, 2014-Ohio-2581, ¶ 21
- State v. Grimm, 12th Dist. Clermont No. CA2018-10-071, 2019-Ohio-2961, ¶ 10
- State v. Abdullah, 10th Dist. Franklin No. 07AP-427, 2007-Ohio-7010, ¶ 16
- State v. Boles, 12th Dist. Brown No. CA2012-06-012, 2013-Ohio-5202, ¶ 14
- State v. Smith, 12th Dist. Fayette No. CA2007-10-035, 2008-Ohio-5931, ¶ 33
- State v. Rosebrook, 11th Dist. Geauga No. 2016-G-0099, 2017-Ohio-9261, ¶ 50
- State v. Lynch, 8th Dist. Cuyahoga No. 84637, 2005-Ohio-3392, ¶ 11
- State v. Smith, 3d Dist. Logan No. 8-12-05, 2013-Ohio-746, ¶ 20
- State v. Murphy, 91 Ohio St.3d 516, 555 (2001)