

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia v. Jaymason Robinson

No. 12-0368 (Wood County 10-F-56) (W. Va. June 24, 2013) · No. No. 12-0368 · Decided June 24, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed Jaymason Robinson’s convictions and sentences for two counts of voluntary manslaughter and two counts of concealment of a deceased human body. The court rejected challenges concerning the sufficiency of the evidence, evidentiary rulings, a flight instruction, juror removal under Batson, jury instructions concerning malice, and special interrogatories. The court declined to address ineffective assistance of counsel on direct appeal, noting that the issue was more appropriately pursued in a habeas corpus proceeding.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 24, 2013
DOCKET	No. 12-0368
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the Circuit Court of Wood County's sentencing order following convictions for two counts of voluntary manslaughter and two counts of concealment of a deceased human body.
STANDARD OF REVIEW	A challenge to the sufficiency of the evidence is reviewed by examining all evidence and reasonable inferences in the light most favorable to the prosecution, with the verdict set aside only when the record contains no evidence from which the jury could find guilt beyond a reasonable doubt. Jury instructions are reviewed for abuse of discretion, and the instructions are considered as a whole for accuracy and fairness. Unobjected-to jury instructions or responses are generally waived, subject to applicable plain-error principles. Ineffective-assistance claims are ordinarily not adjudicated on direct appeal because the record is usually undeveloped.

PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is issued under Rule 21 as a memorandum decision.
PARTIES	Jaymason Robinson v. State of West Virginia

TOPICS

criminal procedure appellate procedure standard of review harmless error ineffective assistance

PRACTICE AREAS

criminal procedure criminal appeals evidence post-conviction relief

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Robinson's convictions for voluntary manslaughter.
2. Whether the circuit court erred in its evidentiary rulings and in giving a jury instruction on flight.
3. Whether striking an African-American juror for cause violated Batson v. Kentucky.
4. Whether the Supreme Court of Appeals should overrule State v. Dilliner and permit special interrogatories in criminal cases.
5. Whether the circuit court's response to the jury's questions concerning malice and events before and after the shootings was erroneous and prejudicial.
6. Whether ineffective assistance of trial counsel warranted relief on direct appeal.

HOLDINGS

1. The evidence was sufficient to establish a prima facie case of voluntary manslaughter and to support the jury's verdict; the denial of judgment of acquittal was proper.
2. The circuit court did not err in giving the jury an instruction on flight.
3. The court did not err in permitting the African-American juror to be struck for cause because Robinson provided no factual or legal support for a Batson violation, and the State identified cause based on untruthful responses and lack of understanding of the legal system.
4. The court declined to overrule State v. Dilliner and rejected Robinson's request to permit special interrogatories in criminal cases.
5. Robinson could not obtain appellate review of his challenge to the court's response to the jury's malice questions because he affirmatively stated that he had no objection; in any event, any error concerning malice was harmless because the jury convicted him of voluntary manslaughter, which does not require malice.
6. The court declined to decide Robinson's ineffective-assistance claim on direct appeal and stated that the issue would be more appropriately addressed in a petition for post-conviction habeas corpus.

KEY QUOTATIONS

“A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden.” (at 1)

“It is the extremely rare case when this Court will find ineffective assistance of counsel when such a charge is raised as an assignment of error on a direct appeal.” (at 3)

FACTUAL BACKGROUND

On September 4, 2009, Lester Wratchford and Eric Sprouse went to Robinson's residence with James Denton. Robinson shot both victims in a bedroom, asserting that one victim reached for a gun and that he fired because he believed his life was in danger. Robinson and James Walters Jr. then wrapped the bodies, transported them in the victims' vehicle, and dumped them along a logging road, where they covered them with brush and logs.

PROCEDURAL HISTORY

Robinson was convicted on March 18, 2011, after a jury found him guilty of two counts of voluntary manslaughter as lesser included offenses of murder and two counts of concealment of a deceased human body. The circuit court denied his post-trial motion for judgment of acquittal or a new trial, sentenced him to fifteen years for each manslaughter conviction and one to five years for each concealment conviction, and entered a sentencing order on February 13, 2012. Robinson appealed, challenging the sufficiency of the evidence, evidentiary rulings, jury instructions, juror removal, special interrogatories, and counsel's effectiveness; the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Houston, 197 W. Va. 215, 229, 475 S.E.2d 307, 321 (1996)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. Broughton, 196 W. Va. 281, 470 S.E.2d 413 (1996)
- State v. McGuire, 200 W. Va. 823, 833-34 n.25, 490 S.E.2d 912, 922-23 n.25 (1997)
- State v. LaRock, 196 W. Va. 294, 305, 470 S.E.2d 613, 624 (1996)
- Tennant v. Marion Health Care Foundation, Inc., 194 W. Va. 97, 459 S.E.2d 374 (1995)
- State v. Payne, 167 W. Va. 252, 267-68, 280 S.E.2d 72, 81 (1981)
- Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986)
- State v. Dilliner, 212 W. Va. 135, 569 S.E.2d 211 (2002)
- State v. Mason, 162 W. Va. 297, 307, 249 S.E.2d 793, 799 (1978)
- State v. Triplett, 187 W. Va. 760, 421 S.E.2d 511 (1992)
- State v. Hutchinson, 215 W. Va. 313, 599 S.E.2d 736 (2004)

OPINION

PER CURIAM.

STATE OF WEST VIRGINIA SUPREME COURT OF APPEALS State of West Virginia, FILED June 24, 2013 Plaintiff Below, Respondent RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS vs) No. 12-0368 (Wood County 10-F-56) OF WEST VIRGINIA Jaymason Robinson, Defendant Below, Petitioner MEMORANDUM DECISION Petitioner Jaymason Robinson, by counsel Wells H. Dillon, appeals the Circuit Court of Wood County's sentencing order entered on February 13, 2012.

Respondent State of West Virginia, by counsel Scott E. Johnson, has filed a response. This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error.

For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure. Petitioner was charged with two counts of murder and two counts of concealment of a deceased human body based on the shooting deaths of Lester Wratchford and Eric Sprouse.

On September 4, 2009, the two victims came to petitioner's residence with a man named James Denton. The two victims went into a bedroom with petitioner, wherein he shot them each in the head. Petitioner claims that the two men were seeking drugs, and that one of the men reached for a gun lying on petitioner's bed. Petitioner claims he grabbed the gun and shot the men when they charged toward him because he felt his life was in danger.

Denton, then in the kitchen, ran from the home. Another witness, Crystal Smith, was in the house at the time and heard the shooting. She then saw petitioner leave the bedroom with blood on his shirt, and he directed her to call the owner of the home, James Walters Jr., and ask him to return home. He did so and ordered Smith to leave, which she did. Walters and petitioner then wrapped the bodies in tarps and put the bodies in the car that the victims had driven to the home.

Petitioner and Walters then drove to a logging road and dumped the bodies over a hillside and covered them with brush and logs. On March 18, 2011, petitioner was found guilty of two counts of voluntary manslaughter, a lesser included offense to murder, and two counts of concealment of a deceased human body.

On June 7, 2011, the circuit court held a hearing on petitioner's previously filed motion for post-trial judgment of acquittal or, in the alternative, motion for new trial. The motion was denied. Petitioner was then sentenced to fifteen years of incarceration on each manslaughter charge and one to five years of incarceration on each concealment charge. 1 Petitioner first argues that the trial court erred by failing to grant petitioner's motions for directed verdict or judgment of

acquittal based on the contention that the State failed to introduce evidence constituting a prima facie case of voluntary manslaughter.

We have previously held that “[a] motion for judgment of acquittal challenges the sufficiency of the evidence.” *State v. Houston*, 197 W.Va. 215, 229, 475 S.E.2d 307, 321 (1996) (citing *Franklin D. Cleckley*, 2 *Handbook on West Virginia Criminal Procedure* 292 (2d ed.1993)).

We also note that “[a] criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden. An appellate court must review all the evidence, whether direct or circumstantial, in the light most favorable to the prosecution and must credit all inferences and credibility assessments that the jury might have drawn in favor of the prosecution.

The evidence need not be inconsistent with every conclusion save that of guilt so long as the jury can find guilt beyond a reasonable doubt. Credibility determinations are for a jury and not an appellate court. Finally, a jury verdict should be set aside only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt.

To the extent that our prior cases are inconsistent, they are expressly overruled.” Syl. Pt. 3, *State v. Guthrie*, 194 W.Va. 657, 461 S.E.2d 163 (1995). Syl. Pt. 5, *State v. Broughton*, 196 W.Va. 281, 470 S.E.2d 413 (1996).

The circuit court properly instructed the jury that voluntary manslaughter occurs when the defendant feloniously, unlawfully, and intentionally, but without premeditation, deliberation, or malice, kills the victim. See *State v. McGuire*, 200 W.Va. 823, 833-34 n.25, 490 S.E.2d 912, 922-23 n.25 (1997). This Court has found that “if one voluntarily does an act, the direct and natural tendency of which is to destroy another’s life, it fairly may be inferred, in the absence of evidence to the contrary, that the destruction of that other’s life was intended.” *State v. LaRock*, 196 W.Va.

294, 305, 470 S.E.2d 613, 624 (1996). A review of the record shows that the State did present evidence constituting a prima facie case of voluntary manslaughter. Petitioner shot both victims at close range, and shot them more than once.

The jury heard the evidence and agreed. This Court finds no error in the circuit court’s denial of the motion for judgment of acquittal. Petitioner next argues that the trial court erred by ruling adversely to petitioner on numerous evidentiary admissibility issues throughout the trial, which he claims resulted in his convictions for voluntary manslaughter.

Petitioner also argues that the circuit court should not have given a jury instruction on flight because petitioner turned himself in four days after the shooting. Petitioner additionally argues that the court granted the State’s motion to strike for cause the only African-American juror during voir dire because she allegedly failed to provide accurate information.

Petitioner argues that this is a violation of *Batson v. Kentucky*, 476 U.S. 79, 106 S. Ct. 1712 (1986). Finally, petitioner argues that this Court should reverse its holding in *State v. Dilliner*, 212 W.Va. 135, 569 S.E.2d 211 (2002), and allow special interrogatories in criminal cases.

First, the jury instruction on flight was proper, and petitioner pointed to no legal or factual error on this point. As this Court has stated, 2 The formulation of jury instructions is within the broad discretion of a circuit court, and a circuit court's giving of an instruction is reviewed under an abuse of discretion standard. A verdict should not be disturbed based on the formulation of the language of the jury instructions so long as the instructions given as a whole are accurate and fair to both parties.

Syl. Pt. 6, *Tennant v. Marion Health Care Foundation, Inc.*, 194 W. Va. 97, 459 S.E.2d 374 (1995). The instruction in this case was similar to the one approved by this Court in *State v. Payne*, 167 W.Va. 252, 267-68, 280 S.E.2d 72, 81 (1981), and we find no error in the instruction.

As to the motion to strike the African-American juror, petitioner gives absolutely no factual or legal support for his contention that this action violated *Batson*. However, the State points out that the juror was struck for cause based on untruthful responses to questioning and a lack of understanding of the legal system.

We find no error in this regard. As to petitioner's assertion that this Court should overrule *Dilliner*, we find no merit in petitioner's request. This Court declines to overrule *Dilliner* at this time. Next, petitioner argues that the trial court erred by responding to the jury's question regarding malice and the connection between malice and the events occurring before, during, and after the shooting.

Petitioner contends that the trial court's response confused the jury and caused them to infer an intent to kill from defendant's actions and conduct after the shooting. These questions from the jury were read into the transcript: In the instructions, the definition of malice includes the words... "before and after the event." "Does the event just include Counts One and Two [the murder counts]?" "Do we consider Counts Three and Four [disposing of a body] as part of the event, or are they separate events from One and Two?" The court responded to the first question with "The event is the death of Mr. Sprouse and Mr. Wretchford" and to question two, "the facts and circumstances of Counts Three and Four may be considered by you in determining whether there was malice, but recall that malice must have existed prior to the commission of Counts One and Two." Petitioner argues that the second response confused the jury.

First, this Court notes that petitioner did not object to the proposed answers, even stating affirmatively that he had no objection. Thus, the issue is waived and precludes review. Moreover, the question and answer relate to malice, but petitioner was convicted of voluntary manslaughter which does not require malice. Where a jury convicts on voluntary manslaughter, any error related to malice is, at best, harmless.

See, *State v. Mason*, 162 W.Va. 297, 307, 249 S.E.2d 793, 799 (1978). Finally, petitioner argues that the trial court erred by failing to declare a mistrial or otherwise render judgment in favor of petitioner due to the ineffective assistance of petitioner's trial counsel in allowing testimony to be introduced showing that petitioner was a drug dealer.

However, as we have previously stated: 3 "It is the extremely rare case when this Court will find ineffective assistance of counsel when such a charge is raised as an assignment of error on a direct appeal. The prudent defense counsel first develops the record regarding ineffective assistance of counsel in a habeas corpus proceeding before the lower court, and may then appeal if such relief is denied.

This Court may then have a fully developed record on this issue upon which to more thoroughly review an ineffective assistance of counsel claim." Syllabus Point 10 of *State v. Triplett*, 187 W.Va. 760, 421 S.E.2d 511 (1992). Syl. Pt. 10, *State v. Hutchinson*, 215 W.Va. 313, 599 S.E.2d 736 (2004). Petitioner has not shown this to be one of the "extremely rare" cases in which this Court should address ineffective assistance of counsel on direct appeal.

This Court is not deciding ineffective assistance of counsel in the course of this appeal because the matter would more appropriately be addressed pursuant to a petition for writ of habeas corpus. If he desires, petitioner may pursue a petition for writ of post-conviction habeas corpus.

We express no opinion on the merits of this issue or of any habeas petition. For the foregoing reasons, we affirm. Affirmed. ISSUED: June 24, 2013 CONCURRED IN BY: Chief Justice Brent D. Benjamin Justice Robin Jean Davis Justice Margaret L. Workman Justice Menis E. Ketchum Justice Allen H. Loughry II 4