

SUPREME COURT OF NEW HAMPSHIRE

State v. Brooks

162 N.H. 570 (2011) · Decided October 27, 2011

SUMMARY

The New Hampshire Supreme Court affirmed Jesse Brooks's conviction for conspiracy to commit murder. The court held that any error in admitting prior recorded statements as recorded recollections was harmless beyond a reasonable doubt, upheld the trial court's finding that a witness was competent to testify, and addressed the defendant's speedy-trial claim under the Barker v. Wingo framework.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Hicks, J.; Dalianis, C.J.; Duggan, J.; Conboy, J.
JURISDICTION	New Hampshire
DECIDED	October 27, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jesse Brooks appealed his conviction for conspiracy to commit murder, challenging the admission of prior recorded statements, the competency of a prosecution witness, and the denial of his motion to dismiss for violation of the right to a speedy trial.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for prejudice and may be harmless beyond a reasonable doubt. A witness competency determination is reviewed for an unsustainable exercise of discretion. For speedy-trial claims, factual findings are reviewed for clear error and legal conclusions are reviewed de novo; the court applies the four-part Barker v. Wingo balancing test.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jesse Brooks v. State of New Hampshire

TOPICS

- criminal procedure
- conspiracy
- hearsay
- speedy trial
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court reversibly erred by admitting Dennis Chamberlain's 2007 and 2008 prior recorded statements under New Hampshire Rule of Evidence 803(5).
2. Whether the trial court unsustainably exercised its discretion by finding Chamberlain competent to testify despite memory problems following brain surgery.
3. Whether the thirty-two-month delay between Brooks's arraignment and trial violated his speedy-trial rights under the New Hampshire and Federal Constitutions.

HOLDINGS

1. Even assuming without deciding that the trial court erred by admitting Chamberlain's 2007 and 2008 statements as recorded recollections, any error was harmless beyond a reasonable doubt because the statements were cumulative and inconsequential in light of the overwhelming alternative evidence of Brooks's participation in the conspiracy.
2. The trial court did not unsustainably exercise its discretion in finding Chamberlain competent to testify because the record supported his ability to observe, remember, narrate, and understand the duty to tell the truth.
3. Brooks was not denied his right to a speedy trial under either the New Hampshire or Federal Constitution.

KEY QUOTATIONS

"Thus, the State had to prove that the defendant and at least one other person agreed to commit the crime of murder." (at 576-77)

"Intermittent confusion over certain issues and questions does not necessarily render a witness incompetent." (at 580-81)

"Inconsistencies in testimony and a failure to remember aspects of the subject of the testimony, however, do not disqualify a witness. They present questions of credibility for resolution by the trier of fact." (at 581)

FACTUAL BACKGROUND

Brooks was accused of participating in a conspiracy with his father and others to murder Jack Reid after Reid was suspected of stealing motorcycles. Evidence showed that Brooks discussed the plan, visited Reid's home with another participant, helped coordinate later efforts to kill Reid, and provided money to participants after the murder. At trial, prosecution witness Dennis Chamberlain, who had undergone brain surgery affecting his memory, testified about Brooks's statements, and the State introduced portions of Chamberlain's earlier recorded statements.

PROCEDURAL HISTORY

Brooks was arraigned on February 5, 2007, and later indicted for conspiracy to commit murder. After a jury trial beginning October 28, 2009, he was convicted. The trial court admitted portions of Dennis Chamberlain's prior recorded statements under New Hampshire Rule of Evidence 803(5), found Chamberlain competent to testify, and denied Brooks's speedy-trial motion. The Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Knight, 161 N.H. 338, 339-40 (2011)
- State v. Reid, 161 N.H. 569, 572 (2011)
- State v. Prudent, 161 N.H. 320, 323 (2010)
- State v. Peters, 162 N.H. 30, 36 (2011)
- State v. O'Leary, 153 N.H. 710, 714 (2006)
- State v. Gilbert, 115 N.H. 665, 667 (1975)
- Kilgus, 128 N.H. at 586-87
- State v. Cole, 139 N.H. 246, 250-51 (1994)
- State v. Keyes, 114 N.H. 487, 489 (1974)
- State v. Munroe, 161 N.H. 618, 623 (2011)
- People v. Watson, 629 N.W.2d 411, 420 (Mich. Ct. App. 2001)
- State v. Briere, 138 N.H. 617, 620-21 (1994)
- State v. Mills, 136 N.H. 46, 50 (1992)
- State v. Ball, 124 N.H. 226, 231-33 (1983)
- Barker v. Wingo, 407 U.S. 514, 530-32 (1972)
- State v. Allen, 150 N.H. 290, 292, 294-95 (2003)
- State v. Locke, 149 N.H. 1, 8 (2002)
- Humphrey v. Cunningham, Warden, 133 N.H. 727, 734-35 (1990)
- State v. Maynard, 137 N.H. 537, 539 (1993)
- State v. Langone, 127 N.H. 49, 55 (1985)
- State v. Lamarche, 157 N.H. 337, 343-44 (2008)
- State v. Winward, 161 N.H. 533, 542 (2011)
- State v. Dodds, 159 N.H. 239, 244 (2009)
- State v. Cotell, 143 N.H. 275, 283 (1998)
- State v. Tucker, 132 N.H. 31, 33 (1989)