

SUPREME COURT OF THE STATE OF ARIZONA

State of Arizona v. Julio Pedroza-Perez

240 Ariz. 114 (2016) · No. CR 15-0312-PR · Decided August 9, 2016

SUMMARY

The Arizona Supreme Court held that the trial court erred by preventing the defendant from mentioning his anticipated duress defense and supporting testimony during opening statements. The court determined that the error was non-structural and vacated the court of appeals’ decision, remanding for a harmless-error determination.

CASE DETAILS

COURT	Supreme Court of the State of Arizona
WRITING FOR THE COURT	Justice Brutinel; Chief Justice Bales; Vice Chief Justice Pelander; Justice Timmer; Justice Bolick
JURISDICTION	Arizona
DECIDED	August 9, 2016
DOCKET	CR 15-0312-PR
DISPOSITION	vacated
PROCEDURAL POSTURE	Pedroza-Perez sought review of a memorandum decision of the Arizona Court of Appeals affirming his convictions after the trial court barred him from mentioning his duress defense and anticipated testimony during opening statement.
STANDARD OF REVIEW	A trial court's ruling on the content of an opening statement is reviewed for abuse of discretion. An error of law in reaching a discretionary conclusion may constitute an abuse of discretion. The resulting trial error was subject to harmless-error review, requiring the State to establish beyond a reasonable doubt that the error did not contribute to or affect the verdict.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Julio Pedroza-Perez v. State of Arizona

TOPICS

- criminal procedure
- evidence
- appellate procedure
- harmless error
- standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by preventing defense counsel from mentioning Pedroza-Perez's duress defense and anticipated testimony in the opening statement.
2. Whether the trial court's error was structural error requiring reversal or nonstructural error subject to harmless-error review.

HOLDINGS

1. The trial court erred by limiting Pedroza-Perez's opening statement on the ground that he might change his mind and decline to testify. A party may reference anticipated evidence in opening statement when the party has a good-faith basis to believe the evidence exists and will be admissible.
2. The trial court's restriction was nonstructural error subject to harmless-error review, rather than structural error requiring automatic reversal.

KEY QUOTATIONS

"Specific evidence may be referenced in the opening statement as long as the proponent has a good faith basis for believing the proposed evidence exists and will be admissible." (240 Ariz. at 117)

"Opening statements are predictions about what the evidence will show." (240 Ariz. at 117)

FACTUAL BACKGROUND

Pedroza-Perez was arrested after Border Patrol agents and sheriff's deputies found him beneath a tree with backpacks containing marijuana; the other smugglers accompanying him had escaped. Before trial, he notified the court that he would present a duress defense and submitted an affidavit stating that armed smugglers threatened him and his family and forced him to carry the marijuana. The trial court barred him from mentioning the defense or anticipated testimony in opening statement, although he later testified consistently with the affidavit, counsel argued duress in closing, and the jury received a duress instruction.

PROCEDURAL HISTORY

The Pima County Superior Court convicted Pedroza-Perez of transportation of marijuana and possession of drug paraphernalia, acquitting him of importation of marijuana, and sentenced him to prison. The Arizona Court of Appeals affirmed. The Arizona Supreme Court granted review, vacated the Court of Appeals' decision, held that the trial court improperly restricted the opening statement, and remanded for harmless-error review.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Arizona Court of Appeals was directed to determine whether, in light of all the evidence, the State could establish beyond a reasonable doubt that the trial court's error in limiting the opening statement did not contribute to or affect the verdict.

CASES CITED

- State v. Prewitt, 104 Ariz. 326, 333, 452 P.2d 500, 507 (1969)
- Busso-Estopellán v. Mroz, 238 Ariz. 553, 554 ¶ 5, 364 P.3d 472, 473 (2015)
- State v. Burruell, 98 Ariz. 37, 40, 42, 401 P.2d 733, 736-37 (1965)
- Oesby v. United States, 398 A.2d 1, 5 (D.C. 1979)
- United States v. Dinitz, 424 U.S. 600, 603, 612 (1976)
- State v. Bible, 175 Ariz. 549, 588, 601-02, 858 P.2d 1152, 1191, 1204-05 (1993)
- State v. Whitaker, 112 Ariz. 537, 542, 544 P.2d 219, 224 (1975)
- State v. Manuel, 229 Ariz. 1, 6 ¶ 24, 270 P.3d 828, 833 (2011)
- State v. Gallardo, 225 Ariz. 560, 569 ¶ 40, 242 P.3d 159, 168 (2010)
- Rutledge v. State, 41 Ariz. 48, 55-56, 15 P.2d 255, 258 (1932)
- State v. Valverde, 220 Ariz. 582, 585 ¶¶ 10-11, 208 P.3d 233, 236 (2009)
- State v. Ring (Ring III), 204 Ariz. 534, 552 ¶ 45, 65 P.3d 915, 933 (2003)
- State v. Henderson, 210 Ariz. 561, 565 ¶ 12, 115 P.3d 601, 605 (2005)
- State v. Anderson, 197 Ariz. 314, 323 ¶ 22, 4 P.3d 369, 378 (2000)
- Neder v. United States, 527 U.S. 1, 8-9 (1999)