

SUPREME COURT OF NEW JERSEY

State v. Rolon, 199 N.J. 575

974 A.2d 1021 (2009) · No. A-45, September Term 2008 · Decided July 13, 2009

SUMMARY

The Supreme Court of New Jersey held that, for a non-firearm object such as a folding knife, a defendant is not “armed with a deadly weapon” for purposes of first-degree robbery unless the defendant had immediate access to the object and intended to use it in a manner capable of causing death or serious bodily injury. The Court concluded that the trial judge’s instruction that the defendant’s intent regarding the knife was irrelevant was misleading and required reversal of the first-degree robbery conviction. The judgment of the Appellate Division was affirmed and the matter was remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Per Curiam; Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Rivera-Soto; Justice Hoens
JURISDICTION	New Jersey
DECIDED	July 13, 2009
DOCKET	A-45, September Term 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State petitioned for certification from the Appellate Division's reversal of defendant's first-degree robbery conviction and remand for a new trial. The Supreme Court affirmed the Appellate Division.
STANDARD OF REVIEW	The court reviewed the legal sufficiency of the jury instruction and whether the erroneous instruction required reversal; erroneous instructions on material issues are presumed reversible error.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	State of New Jersey v. Maribel Rolon a/k/a Rodriguez

TOPICS

- statutory interpretation
- jury instructions
- standard jury instructions
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether, under New Jersey's robbery and deadly-weapon statutes, a defendant possessing a non-firearm object with legitimate uses must have immediate access to the object and an intent to use it in a manner capable of producing death or serious bodily injury to be considered armed with a deadly weapon.
2. Whether the trial court's instruction that defendant's intent regarding the folding knife was irrelevant was erroneous and required reversal of the first-degree robbery conviction.
3. Whether the Supreme Court should disapprove *State v. Clark* to the extent it treated the phrase armed with a deadly weapon differently under the burglary statute.

HOLDINGS

1. When the alleged weapon is not a firearm and is an object with legitimate as well as illegitimate uses, a defendant cannot be considered armed with a deadly weapon under N.J.S.A. 2C:15-1(b) unless the defendant had immediate access to the object and intended to use it in a way capable of producing death or serious bodily injury.
2. The trial judge correctly explained that being armed means possessing an implement in a manner making it available for use as a weapon, but erred by instructing the jury that defendant's intent regarding the knife was irrelevant.
3. *State v. Clark* is disapproved to the extent it suggests that the phrase armed with a deadly weapon has different meanings under the robbery and burglary statutes.

KEY QUOTATIONS

"Those cases, which were decided under the robbery statute, stand for the proposition that, where the potential weapon is not a firearm, a defendant cannot be considered to have been 'armed with a deadly weapon' unless he had immediate access to the potential weapon and an intent to use it in a way that is 'capable of producing death or serious bodily injury.'" (974 A.2d at 1027)

"Because an armed robbery conviction is dependent upon proof that a defendant was 'armed with a deadly weapon' and because the determination of whether an equivocal item is in fact a 'deadly weapon' depends upon how the defendant used or intended to use it, the defendant's intent regarding the item cannot be 'irrelevant.'" (974 A.2d at 1028)

"When the judge answered the question 'Definition of armed?' by saying 'armed means possessing an implement in a way that makes it available for use as a weapon,' he was correct. However, when he added, '[t]he defendant's intent with respect to the object is irrelevant,' he misled the jury." (974 A.2d at 1028)

FACTUAL BACKGROUND

Maribel Rolon entered a restaurant and admitted taking money from the owner's purse. During a subsequent struggle, a folding knife fell from Rolon's pocket; the parties disputed whether she removed, displayed, or

intended to use the knife as a weapon. The trial judge instructed the jury that Rolon's intent regarding the knife was irrelevant, and the jury convicted her of first-degree robbery.

PROCEDURAL HISTORY

Defendant was convicted by a jury of first-degree robbery and fourth-degree unlawful possession of a weapon and pleaded guilty to being a certain person not to have weapons. The Appellate Division reversed the first-degree robbery conviction and remanded for a new trial, holding that the jury instruction stating that defendant's intent regarding the knife was irrelevant was fatally defective. The Supreme Court granted the State's petition for certification and affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

A new trial is required on the first-degree robbery charge because the jury instruction improperly eliminated defendant's intent as an issue. The Supreme Court affirmed the Appellate Division's reversal and remand.

CASES CITED

- State v. Rolon, 400 N.J. Super. 608, 948 A.2d 735 (App. Div. 2008)
- State v. Riley, 306 N.J. Super. 141, 703 A.2d 347 (App. Div. 1997)
- State v. Brown, 325 N.J. Super. 447, 739 A.2d 975 (App. Div. 1999), certif. denied, 163 N.J. 76, 747 A.2d 285 (2000)
- State v. Merritt, 247 N.J. Super. 425, 589 A.2d 648 (App. Div.), certif. denied, 126 N.J. 336, 598 A.2d 893 (1991)
- State v. Clark, 352 N.J. Super. 130, 799 A.2d 679 (App. Div.), certif. denied, 174 N.J. 545, 810 A.2d 65 (2002)
- State v. Smith, 197 N.J. 325, 963 A.2d 281 (2009)
- DiProspero v. Penn, 183 N.J. 477, 874 A.2d 1039 (2005)
- State v. Kelly, 118 N.J. 370, 571 A.2d 1286 (1990)
- State v. Wright, 96 N.J. 170, 475 A.2d 38 (1984)
- State v. Lee, 96 N.J. 156, 475 A.2d 31 (1984)
- State v. Blaine, 221 N.J. Super. 66, 533 A.2d 980 (App. Div. 1987)
- State v. Lopez, 187 N.J. 91, 900 A.2d 779 (2006)
- State v. Marshall, 173 N.J. 343, 801 A.2d 1142 (2002)
- Oldfield v. N.J. Realty Co., 1 N.J. 63, 61 A.2d 767 (1948)
- State v. D.A., 191 N.J. 158, 923 A.2d 217 (2007)

