

SUPREME COURT OF MISSISSIPPI

Joseph Scott Montana v. State of Mississippi

822 So. 2d 954 (Miss. 2002) · No. No. 2000-KA-00921-SCT · Decided July 25, 2002

SUMMARY

The Supreme Court of Mississippi affirmed Joseph Scott Montana's conviction for depraved-heart murder and life sentence arising from the fatal shooting of Rashad Holloway. The court rejected challenges to jury instructions concerning self-defense, accident or misfortune, the indictment, admission of evidence, and circumstantial evidence instructions.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Smith, P.J.; Pittman, C.J.; McRae, P.J.; Waller, J.; Cobb, J.; Diaz, J.; Easley, J.; Carlson, J.; Graves, J.
JURISDICTION	Mississippi
DECIDED	July 25, 2002
DOCKET	No. 2000-KA-00921-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a murder conviction and life sentence after denial of a motion for judgment notwithstanding the verdict or, alternatively, a new trial.
STANDARD OF REVIEW	Jury instructions are reviewed as a whole to determine whether they fairly announce the law and create no injustice. Evidentiary rulings under Mississippi Rules of Evidence 403 and 404(b) are reviewed for abuse of discretion. Legal sufficiency is reviewed by viewing the evidence in the light most favorable to the State and reversing only when reasonable jurors could not have reached the verdict. Weight of the evidence is reviewed for abuse of discretion, with reversal warranted only when the verdict is so contrary to the overwhelming weight of the evidence that allowing it to stand would sanction an unconscionable injustice.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	Joseph Scott Montana v. State of Mississippi

TOPICS

jury instructions

self defense

criminal procedure

evidence

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the self-defense instructions, considered together, adequately instructed the jury on self-defense and the State's burden to disprove it.
2. Whether the trial court properly refused a redundant self-defense and reasonable-doubt instruction.
3. Whether Montana was entitled to accident-or-misfortune instructions under Mississippi Code section 97-3-17.
4. Whether the indictment was defective for omitting the statutory phrase concerning the absence of premeditated design.
5. Whether the false police report was admissible under Mississippi Rules of Evidence 404(b) and 403.
6. Whether admission of the .380 pistol, magazine, and ammunition was prejudicial error.
7. Whether Montana was entitled to circumstantial-evidence jury instructions.
8. Whether the principal murder instruction was defective because it omitted the premeditated-design language, failed to define certain terms, and omitted accident or misfortune.
9. Whether the evidence was legally sufficient to support the murder conviction.
10. Whether the verdict was against the overwhelming weight of the evidence.

HOLDINGS

1. The self-defense instructions, read together, adequately informed the jury of the elements of self-defense and the State's burden to prove beyond a reasonable doubt that Montana was not acting in self-defense.
2. The trial court properly refused Instruction D-31 because it was redundant and conflicted with the instruction allowing the jury to consider manslaughter if the State failed to prove murder.
3. Montana was not entitled to instructions under Mississippi Code section 97-3-17 because the evidence showed that he intentionally fired the pistol and did not show that the fatal shot itself was accidentally fired.
4. The indictment was sufficient even though it omitted the phrase 'although without any premeditated design to effect the death of any particular individual.'
5. The trial court did not abuse its discretion by admitting Montana's false police report to show knowledge and absence of mistake or accident.
6. Any error in admitting the .380 pistol, magazine, and ammunition was harmless because the exhibit was never mentioned to the jury and Montana demonstrated no prejudice.

7. Montana was not entitled to circumstantial-evidence instructions because the State presented direct evidence of the shooting and Montana's pointing the pistol at the departing minivan.
8. Instruction S-2A was not defective for omitting the premeditated-design language, failing to separately define depraved heart and negligence, or omitting accident or misfortune.
9. The evidence was legally sufficient to support Montana's murder conviction.
10. The verdict was not against the overwhelming weight of the evidence, and the trial court did not abuse its discretion by denying a new trial.

KEY QUOTATIONS

“When so read, if the instructions fairly announce the law of the case and create no injustice, no reversible error will be found.” (959)

“The crucial distinction between Evans and Day, on the one hand, and the case sub judice, on the other, is that there was evidence in Evans and Day that the firing of the weapon was accidental.” (963)

“The indictment against Montana tracks the language of § 97-3-19(1)(b), states the essential facts, and fully notified him of the nature and cause of the accusation.” (964)

“It is the jury's province to resolve such conflicts, and the jury is free to accept the testimony of some witnesses and reject that of others, in whole or in part.” (966)

FACTUAL BACKGROUND

During a series of altercations at a residence in Gulfport, Montana retrieved a 9mm pistol and fired approximately three shots into the air as members of an uninvited group left. Witnesses testified that additional shots were fired as a minivan departed, and one witness saw Montana point the pistol toward the vehicle. Rashad Holloway, who was in the minivan, was killed by a 9mm projectile, although the bullet could not be conclusively matched to Montana's pistol. Montana later filed a false police report claiming that the pistol had been stolen.

PROCEDURAL HISTORY

Montana was convicted in the Circuit Court of Harrison County of depraved-heart murder under Mississippi Code section 97-3-19(1)(b) and sentenced to life imprisonment. The trial court denied his post-trial motion, and Montana timely appealed. On rehearing, the Mississippi Supreme Court withdrew its original opinion, substituted this opinion, and affirmed the conviction and sentence.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 803 So. 2d 1159, 1161-62 (Miss. 2001)
- Hickombottom v. State, 409 So. 2d 1337, 1339 (Miss. 1982)

- Reddix v. State, 731 So. 2d 591, 595 (Miss. 1999)
- Robinson v. State, 434 So. 2d 206, 207 (Miss. 1983)
- Flowers v. State, 473 So. 2d 164, 165 (Miss. 1985)
- Cohen v. State, 732 So. 2d 867 (Miss. 1998)
- Gossett v. State, 660 So. 2d 1285, 1295 (Miss. 1995)
- Ellis v. State, 790 So. 2d 813, 815 (Miss. 2001)
- Bell v. State, 725 So. 2d 836, 849 (Miss. 1998)
- Laney v. State, 486 So. 2d 1242, 1246 (Miss. 1986)
- Jackson v. State, 645 So. 2d 921, 924 (Miss. 1994)
- Fears v. State, 779 So. 2d 1125 (Miss. 2000)
- Thibodeaux v. State, 652 So. 2d 153, 167 (Miss. 1995)
- Triplett v. State, 666 So. 2d 1356, 1362 (Miss. 1995)
- Evans v. State, 797 So. 2d 811, 814-15 (Miss. 2000)
- Day v. State, 589 So. 2d 637, 642 (Miss. 1991)
- Duplantis v. State, 644 So. 2d 1235, 1246 (Miss. 1994)
- Ladner v. State, 584 So. 2d 743, 758 (Miss. 1991)
- Williams v. State, 543 So. 2d 665, 667 (Miss. 1989)
- Foster v. State, 508 So. 2d 1111, 1117-18 (Miss. 1987)
- Powell v. State, 806 So. 2d 1069, 1080 (Miss. 2001)
- Austin v. State, 784 So. 2d 186, 194 (Miss. 2001)
- Parker v. State, 606 So. 2d 1132, 1137-38 (Miss. 1992)
- Jackson v. State, 594 So. 2d 20, 25 (Miss. 1992)
- Jones v. State, 797 So. 2d 922, 929 (Miss. 2001)
- Givens v. State, 618 So. 2d 1313, 1320 (Miss. 1993)
- Wetz v. State, 503 So. 2d 803, 812 (Miss. 1987)
- Evans v. State, 725 So. 2d 613, 680-81 (Miss. 1997)
- Ivey v. State, 206 Miss. 734, 40 So. 2d 609, 613 (1949)
- McClain v. State, 625 So. 2d 774, 778 (Miss. 1993)
- Coleman v. State, 697 So. 2d 777, 787-88 (Miss. 1997)
- Dudley v. State, 719 So. 2d 180, 182 (Miss. 1998)