

SUPREME COURT OF CONNECTICUT

State v. Mungroo, 299 Conn. 667

11 A.3d 132 (2011) · No. No. 18336 · Decided January 5, 2011

SUMMARY

The Connecticut Supreme Court affirmed the Appellate Court’s judgment upholding Nazra Mungroo’s conviction for fraudulent receipt of workers’ compensation benefits. The court held that defense counsel waived the defendant’s unpreserved constitutional challenge to the jury instruction defining “material fact” by repeatedly reviewing and affirmatively accepting the proposed charge. The court relied on *State v. Kitchens* and rejected the argument that only the defendant personally could waive the instructional claim.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Zarella, J.; Rogers, C.J.; Norcott, J.; Katz, J.; Palmer, J.; Vertefeuille, J.
JURISDICTION	Connecticut
DECIDED	January 5, 2011
DOCKET	No. 18336
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a jury conviction for fraudulent receipt of workers' compensation benefits, the defendant appealed to the Connecticut Appellate Court, which affirmed. The Connecticut Supreme Court granted certification limited to whether the defendant had waived her claim of instructional error and affirmed the Appellate Court.
STANDARD OF REVIEW	Plenary review of the legal standard for waiver because the defendant's claim presented an issue of law.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; binding precedent, including its application of implicit waiver to unpreserved constitutional jury-instruction claims.
PARTIES	Nazra Mungroo v. State of Connecticut

TOPICS

jury instructions

preservation of error

appellate procedure

criminal procedure

due process

PRACTICE AREAS

Criminal law

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Appellate practice

QUESTIONS PRESENTED

1. Whether the defendant waived appellate review under *State v. Golding* of an unpreserved constitutional challenge to the jury instruction defining material fact.
2. Whether defense counsel could waive the defendant's constitutional claim regarding the adequacy of the jury instruction by reviewing and affirmatively accepting the proposed charge.

HOLDINGS

1. When the trial court provides proposed jury instructions, gives counsel a meaningful opportunity to review them, solicits comments or objections, and counsel affirmatively accepts the instructions, the defendant may be deemed to have implicitly waived the constitutional right to challenge the instructions on direct appeal. The defendant's repeated review and acceptance of the charge waived her claim under *State v. Golding*.
2. Defense counsel may waive a constitutional claim concerning the adequacy of a jury instruction through the exercise of professional judgment; a personal knowing and intelligent waiver by the defendant is not required in those circumstances.

KEY QUOTATIONS

“when the trial court provides counsel with a copy of the proposed jury instructions, allows a meaningful opportunity for their review, solicits comments from counsel regarding changes or modifications and counsel affirmatively accepts the instructions proposed or given, the defendant may be deemed to have knowledge of any potential flaws therein and to have waived implicitly the constitutional right to challenge the instructions on direct appeal.” (299 Conn. 675-76)

FACTUAL BACKGROUND

The defendant worked as the general cashier and income auditor at a Hartford hotel that was robbed of more than \$100,000. She reported the robbery, later received more than \$5,000 in workers' compensation benefits, and was subsequently found to have participated in staging the robbery. She was charged with fraudulently receiving workers' compensation benefits based on intentional nondisclosure of material facts concerning the circumstances of her alleged injury.

PROCEDURAL HISTORY

A jury convicted the defendant of fraudulent receipt of workers' compensation benefits under General Statutes § 31-290c (a)(2), and the trial court imposed a one-year consecutive sentence. The Appellate Court affirmed, concluding that the defendant had waived her unpreserved challenge to the jury instruction defining material fact. On certified appeal, the Supreme Court affirmed, applying *State v. Kitchens* and holding that counsel's repeated review and affirmative acceptance of the proposed instructions constituted implicit waiver.

DISPOSITION

affirmed

CASES CITED

- State v. Kitchens, 299 Conn. 447, 10 A.3d 942 (2011)
- State v. Ebron, 292 Conn. 656, 681-82, 975 A.2d 17 (2009)
- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- State v. Fernando A., 294 Conn. 1, 13, 981 A.2d 427 (2009)
- State v. Fabricatore, 281 Conn. 469, 477, 915 A.2d 872 (2007)
- State v. Holness, 289 Conn. 535, 544, 958 A.2d 754 (2008)
- State v. Mungroo, 111 Conn. App. 676, 698-99, 962 A.2d 797 (2008)
- State v. Mungroo, 104 Conn. App. 668, 669, 935 A.2d 229 (2007), cert. denied, 285 Conn. 908, 942 A.2d 415 (2008)
- State v. Cator, 256 Conn. 785, 794, 781 A.2d 285 (2001)
- State v. Tomas D., 296 Conn. 476, 503, 995 A.2d 583 (2010)
- Buell Industries, Inc. v. Greater New York Mutual Ins. Co., 259 Conn. 527, 556, 791 A.2d 489 (2002)
- State v. Hammond, 257 Conn. 610, 614-15 n. 9, 778 A.2d 108 (2001)