

SUPREME COURT OF MISSISSIPPI

Derrick Nelson a/k/a Derrick Demetrius Nelson v. State of Mississippi

No. 2016-CT-00835-SCT (Miss. Aug. 22, 2019) · No. 2016-CT-00835-SCT · Decided August 22, 2019

SUMMARY

The Supreme Court of Mississippi reversed the Court of Appeals and reinstated and affirmed Derrick Nelson's murder conviction and life sentence. The court held that the record did not support an imperfect self-defense jury instruction. It also concluded that the prosecutor's closing-argument comments did not improperly comment on Nelson's right to remain silent.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Justice Chamberlin; Chief Justice Randolph; Presiding Justice Kitchens; Presiding Justice King; Justice Coleman; Justice Maxwell; Justice Beam; Justice Ishee
JURISDICTION	Mississippi
DECIDED	August 22, 2019
DOCKET	2016-CT-00835-SCT
DISPOSITION	reversed
PROCEDURAL POSTURE	The Mississippi Supreme Court granted the State's petition for a writ of certiorari to review the Court of Appeals' reversal of Nelson's murder conviction and remand for a new trial based on refusal of an imperfect self-defense jury instruction.
STANDARD OF REVIEW	Jury instructions are reviewed for abuse of discretion. Instructions are considered together as a whole; reversible error is absent when they fairly state the law and create no injustice. The propriety of prosecutorial comments is reviewed under the applicable case-by-case and prejudice standards, subject to preservation requirements.
PRECEDENTIAL VALUE	Published en banc Mississippi Supreme Court opinion; precedential state authority.
PARTIES	Derrick Nelson a/k/a Derrick Demetrius Nelson v. State of Mississippi

TOPICS

self defense

jury instructions

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

jury instructions

self-defense

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by refusing to give an imperfect self-defense jury instruction.
2. Whether the prosecutor's closing-argument comments about witnesses who did not testify deprived Nelson of a fair trial by commenting on his decision not to testify.
3. Whether the evidence was sufficient to support Nelson's first-degree murder conviction.

HOLDINGS

1. A defendant is not entitled to an imperfect self-defense instruction when the record contains no evidence from which the jury could find that the defendant killed intentionally but without malice under a bona fide, though objectively unfounded, belief that killing was necessary to prevent death or great bodily harm.
2. Comments that address the defense's failure to call other witnesses, rather than the defendant's failure to testify, do not constitute a comment on the defendant's right to remain silent.
3. The evidence was sufficient to support Nelson's first-degree murder conviction and life sentence.

KEY QUOTATIONS

“Rather, under the theory of imperfect self-defense, an intentional killing may be considered manslaughter if done without malice but under a bona fide (but unfounded) belief that it was necessary to prevent death or great bodily harm.” (¶19)

“In homicide cases, the trial court should instruct the jury about a defendant’s theories of defense, justification, or excuse that are supported by the evidence, no matter how meager or unlikely.” (¶26)

“The prosecutor’s remarks were directed at Nelson’s failure to call Smiley to testify, not Nelson’s right to remain silent.” (¶31)

FACTUAL BACKGROUND

During a family graduation celebration on May 4, 2013, Nelson and the intoxicated victim, Willie Hood Jr., argued over Hood's car keys. After further confrontation involving Hood's damaging a vehicle and throwing a beer bottle, Nelson retrieved a handgun, fired shots into the air, and told Hood to calm down. Nelson and Hood then wrestled, during which the gun discharged and struck Hood in the head; Nelson claimed the gun went off accidentally. Nelson fled the scene, and the jury convicted him of first-degree murder.

PROCEDURAL HISTORY

Nelson was indicted and convicted of first-degree murder in the Lowndes County Circuit Court and sentenced to life imprisonment. The Court of Appeals held that the trial court erred by refusing an imperfect self-defense instruction, reversed the conviction, and remanded for a new trial. The Mississippi Supreme Court granted certiorari, reversed the Court of Appeals, reinstated and affirmed the circuit court judgment, and rejected Nelson's fair-trial argument based on alleged prosecutorial comments.

DISPOSITION

reversed

CASES CITED

- Nelson v. State, No. 2016-KA-00835-COA, 2018 WL 5603699 (Miss. Ct. App. Oct. 30, 2018)
- Bailey v. State, 78 So. 3d 308, 315 (Miss. 2012)
- Newell v. State, 49 So. 3d 66, 73 (Miss. 2010)
- Young v. State, 891 So. 2d 813, 819 (Miss. 2005)
- Hearn v. State, 3 So. 3d 722, 738 (Miss. 2008)
- Ronk v. State, 172 So. 3d 1112, 1126 (Miss. 2015)
- Byrd v. State, 158 So. 3d 1146, 1151 (Miss. 2015)
- Batiste v. State, 121 So. 3d 808, 845 (Miss. 2013)
- Cook v. State, 467 So. 2d 203, 207 (Miss. 1985)
- Brown v. State, 222 So. 3d 302, 307 (Miss. 2017)
- Morgan v. State, 117 So. 3d 619, 623 (Miss. 2013)
- Chinn v. State, 958 So. 2d 1223, 1225 (Miss. 2007)
- Drake v. State, 800 So. 2d 508, 518 (Miss. 2001)
- Fairchild v. State, 459 So. 2d 793, 801 (Miss. 1984)
- Wright v. State, 958 So. 2d 158, 161, 164-66 (Miss. 2007)
- Jimpson v. State, 532 So. 2d 985, 991 (Miss. 1988)
- Livingston v. State, 525 So. 2d 1300, 1305-08 (Miss. 1988)
- Ladner v. State, 584 So. 2d 743, 754 (Miss. 1991)
- Logan v. State, 773 So. 2d 338, 348 (Miss. 2000)
- Anderson v. State, 62 So. 3d 927, 940-41 (Miss. 2011)
- Tate v. State, 20 So. 3d 623, 629 (Miss. 2009)
- Shook v. State, 552 So. 2d 841, 851 (Miss. 1989)
- Ross v. State, 603 So. 2d 857, 864 (Miss. 1992)
- Brown v. State, 200 Miss. 881, 27 So. 2d 838, 841 (1946)
- Dampier v. State, 973 So. 2d 221, 235-36 (Miss. 2008)

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