

SUPREME COURT OF MISSISSIPPI

Dominic C. Robinson a/k/a Dominic Carlous Robinson v. State of Mississippi

247 So. 3d 1212 (Miss. 2018) · No. 2014-KA-01038-SCT · Decided April 19, 2018

SUMMARY

The Supreme Court of Mississippi affirmed Dominic C. Robinson’s convictions and sentences for three counts of aggravated assault arising from a nightclub shooting. The court rejected challenges concerning an eyewitness-identification jury instruction, exclusion of evidence relating to a witness’s drug conviction, and prosecutorial questioning about Robinson’s previously undisclosed alibi. Robinson also raised multiple pro se claims, including ineffective assistance, prosecutorial misconduct, due process violations, and evidentiary errors.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Chief Justice; Waller, C.J.; Coleman, J.; Chamberlin, J.
JURISDICTION	Mississippi
DECIDED	April 19, 2018
DOCKET	2014-KA-01038-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Robinson appealed his convictions and sentences for three counts of aggravated assault after a Jackson County jury trial. He challenged jury instructions, evidentiary rulings, alleged prosecutorial misconduct, constitutional violations, ineffective assistance, and the weight of the evidence.

STANDARD OF REVIEW	Jury instructions are reviewed for abuse of discretion and read as a whole. Admission or exclusion of evidence is reviewed for abuse of discretion. Plain-error claims require deviation from a legal rule, an error that is plain, clear, or obvious, and prejudice to the outcome. A challenge to the weight of the evidence is reviewed by accepting evidence supporting the verdict and disturbing it only when allowing the verdict to stand would sanction an unconscionable injustice. Direct-review ineffective-assistance claims are considered only when the record affirmatively demonstrates constitutional ineffectiveness or the record is adequate by stipulation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Dominic C. Robinson a/k/a Dominic Carlous Robinson v. State of Mississippi

TOPICS

criminal procedure evidence appellate procedure due process preservation of error

PRACTICE AREAS

criminal law criminal procedure evidence constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether jury Instruction S-14A improperly commented on the weight of the evidence by referring specifically to Darius Wright's identification and stating that a single eyewitness identification could support a conviction.
2. Whether the trial court improperly excluded an exhibit concerning Darius Wright's drug-possession conviction and alleged leniency.
3. Whether the prosecutor improperly commented on Robinson's post-Miranda silence.
4. Whether the convictions were against the overwhelming weight of the evidence.
5. Whether Robinson received ineffective assistance of trial or appellate counsel.
6. Whether the State committed prosecutorial misconduct by presenting irrelevant or inflammatory evidence, implying flight, expressing an improper opinion on guilt, invading the jury's credibility function, or presenting false evidence or argument.
7. Whether preindictment delay violated Robinson's due-process rights.
8. Whether the State violated due process by failing to preserve bullet casings and fragments.
9. Whether the trial court improperly limited cross-examination of a witness concerning a pending criminal charge.

10. Whether the prosecutor supplied false information during closing argument concerning Jessica Woods's identification.

HOLDINGS

1. Instruction S-14A did not improperly comment on the weight of the evidence because it permitted the jury to determine the reliability and weight of the identification testimony and correctly stated that a single eyewitness identification, if believed beyond a reasonable doubt, may be sufficient to convict.
2. The trial court did not err in excluding the exhibit concerning Wright's drug-possession conviction, and Robinson's alternative bias theory was procedurally barred and unsupported by a sufficient foundation.
3. The prosecutor's question about whether Robinson's Mobile alibi was being disclosed for the first time did not constitute plain error under the specific circumstances because it concerned Robinson's failure to comply with the alibi-disclosure rule rather than an attempt to impeach his post-Miranda silence.
4. The convictions were not against the overwhelming weight of the evidence.
5. Robinson's ineffective-assistance claims did not warrant relief on direct appeal; the investigation claim was dismissed without prejudice for post-conviction proceedings.
6. Robinson failed to establish a due-process violation based on the seventeen-month period between the shooting and indictment.
7. The State's failure to preserve the bullet casings and fragments did not violate due process.
8. Robinson failed to establish prosecutorial misconduct or a due-process violation because he showed inconsistencies, not that witnesses knowingly testified falsely, and the alleged inconsistencies were for the jury to resolve.

KEY QUOTATIONS

"We hold that the mere mention of Wright's testimony in Instruction S-14A did not amount to an improper comment on the weight of the evidence." (¶ 18)

"Under the specific circumstances of this case, we hold that the prosecutor's question did not amount to plain error." (¶ 30)

"For the foregoing reasons, we affirm Robinson's convictions and sentences." (¶ 63)

FACTUAL BACKGROUND

Robinson attended a concert at a Moss Point nightclub, was twice removed after attempting to enter the VIP area, and later returned. Security personnel and other witnesses testified that Robinson drew a handgun and fired toward the nightclub entrance, injuring five people, including seriously injuring Jonathan and Jessica Woods. Darius Wright, a security guard who had known Robinson for approximately fifteen years, identified Robinson as the shooter and later identified him in a photographic lineup. Robinson denied being the shooter and testified that he had left for Mobile before the shooting.

PROCEDURAL HISTORY

A Jackson County grand jury indicted Robinson on five aggravated-assault counts. After the State's case-in-chief, the trial court directed verdicts on two counts. The jury convicted Robinson on the remaining three counts, and the trial court imposed an aggregate thirty-year sentence. The Mississippi Supreme Court affirmed the convictions and sentences and dismissed or rejected the additional pro se claims.

DISPOSITION

affirmed

CASES CITED

- Newell v. State, 49 So. 3d 66, 73 (Miss. 2010)
- Rushing v. State, 911 So. 2d 526, 537 (Miss. 2005)
- Harris v. State, 861 So. 2d 1003, 1012-13 (Miss. 2003)
- Montgomery v. State, 891 So. 2d 179, 184 (Miss. 2004)
- Manuel v. State, 667 So. 2d 590, 592-93 (Miss. 1995)
- Doby v. State, 532 So. 2d 584, 591 (Miss. 1988)
- Williams v. State, 54 So. 3d 212, 213 (Miss. 2011)
- Cox v. State, 849 So. 2d 1257, 1268 (Miss. 2003)
- Bevill v. State, 556 So. 2d 699, 713-14 (Miss. 1990)
- Tillis v. State, 661 So. 2d 1139, 1142 (Miss. 1995)
- Barnes v. State, 460 So. 2d 126, 131 (Miss. 1984)
- Doyle v. Ohio, 426 U.S. 610, 619 (1976)
- Quick v. State, 569 So. 2d 1197, 1199 (Miss. 1990)
- Emery v. State, 869 So. 2d 405, 406-10 (Miss. 2004)
- Cole v. State, 525 So. 2d 365, 369 (Miss. 1987)
- McGee v. State, 953 So. 2d 211, 215 (Miss. 2007)
- Riddley v. State, 777 So. 2d 31, 35 (Miss. 2000)
- Gossett v. State, 660 So. 2d 1285, 1291-92 (Miss. 1995)
- Boone v. State, 973 So. 2d 237, 243 (Miss. 2008)
- Bush v. State, 895 So. 2d 836, 844 (Miss. 2005)
- Little v. State, 233 So. 3d 288, 292 (Miss. 2017)
- Strickland v. Washington, 466 U.S. 668, 687, 689 (1984)
- Dartez v. State, 177 So. 3d 422, 422-23 (Miss. 2015)
- Wilcher v. State, 863 So. 2d 776, 825 (Miss. 2003)
- Read v. State, 430 So. 2d 832, 841 (Miss. 1983)
- Cole v. State, 666 So. 2d 767, 776 (Miss. 1995)
- United States v. Lovasco, 431 U.S. 783, 789, 791 (1977)
- Killen v. State, 958 So. 2d 172, 189 (Miss. 2007)

- De La Beckwith v. State, 707 So. 2d 547, 570 (Miss. 1997)
- State v. McGrone, 798 So. 2d 519, 523 (Miss. 2001)
- Murray v. State, 849 So. 2d 1281, 1286 (Miss. 2003)
- Napue v. Illinois, 360 U.S. 264, 269, 271 (1959)
- Havard v. State, 86 So. 3d 896, 901 (Miss. 2012)
- Turner v. State, 818 So. 2d 1181, 1185 (Miss. 2002)
- Groseclose v. State, 440 So. 2d 297, 300 (Miss. 1983)
- United States v. Schmitz, 634 F.3d 1247, 1268-69 (11th Cir. 2011)
- United States v. Thomas, 453 F.3d 838, 846 (7th Cir. 2006)
- United States v. Williams, 343 F.3d 423, 437 (5th Cir. 2003)
- United States v. Harris, 471 F.3d 507, 511-12 (3d Cir. 2006)
- United States v. Gaines, 170 F.3d 72, 81-82 (1st Cir. 1999)
- Parker v. Jones County Community Hospital, 549 So. 2d 443, 446 (Miss. 1989)
- Goodin v. State, 787 So. 2d 639, 645 (Miss. 2001)
- Mack v. State, 650 So. 2d 1289, 1320-21 (Miss. 1994)
- Anthony v. State, 108 So. 3d 394, 397 (Miss. 2013)
- Fuselier v. State, 702 So. 2d 388, 390 (Miss. 1997)