

SUPREME COURT OF CONNECTICUT

State v. Ramos

261 Conn. 156 (2002) · Decided July 30, 2002

SUMMARY

The Connecticut Supreme Court reviewed Jorge Ramos’s convictions for two counts of murder, capital felony, and accessory to first-degree assault. The court rejected his challenges to the jury instructions concerning the initial-aggressor and provocation exceptions to self-defense, declining to review the unpreserved provocation claim. The court also upheld the exclusion of proposed gang-related testimony as outside the scope of cross-examination or irrelevant.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Katz, J.
JURISDICTION	Connecticut
DECIDED	July 30, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a jury conviction of two counts of murder, one count of capital felony, and one count of accessory to commit assault in the first degree.
STANDARD OF REVIEW	Jury instructions are reviewed as a whole to determine whether they were correct in law, adapted to the issues, and sufficient to guide the jury; an unpreserved constitutional instructional claim is reviewed under State v. Golding only if the defendant affirmatively seeks that review. Evidentiary rulings concerning relevance and the scope of cross-examination are reviewed for abuse of discretion, and reversible evidentiary error requires both an abuse of discretion and resulting harm. Constitutional evidentiary error is subject to harmless-error review beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jorge Ramos v. State

TOPICS

- self defense
- jury instructions
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly instructed the jury that it should give the terms "aggressor" and "aggression" their ordinary meanings when determining whether Ramos was the initial aggressor for purposes of self-defense.
2. Whether the trial court's instruction on the provocation exception to self-defense was defective because it allegedly failed to require proof that Ramos intended to harm the actual victim at the time of the provocation.
3. Whether the trial court improperly limited cross-examination of a police detective concerning the fluidity of gang membership.
4. Whether the trial court improperly excluded testimony concerning gang membership, gang activity, and Ramos's belief that members of the Latin Kings were among the victims.
5. Whether any error in excluding testimony concerning Ramos's subjective state of mind was prejudicial.

HOLDINGS

1. The trial court did not constitutionally err by instructing the jury to use the ordinary meanings of "aggressor" and "aggression" after expressly instructing that the initial aggressor is not necessarily the first person to use physical force.
2. The court declined to review Ramos's claim that the provocation instruction was defective because the claim was unpreserved and Ramos did not affirmatively request review under *State v. Golding* or the plain-error doctrine.
3. The trial court did not abuse its discretion by excluding a question to the police detective concerning the fluidity of gang membership because the question was outside the scope of direct examination and did not establish a relevant, nonspeculative connection between the victims and the Latin Kings.
4. The trial court properly excluded evidence offered to establish the objective reasonableness of Ramos's belief that the victims were gang members because the offer of proof supplied no sufficient connection between the victims and the gang. To the extent the ruling excluded Ramos's testimony about his own subjective state of mind, the court abused its discretion, but the error was harmless because the testimony was cumulative.

KEY QUOTATIONS

"We have explained that interpreting § 53a-19 (c) so that the initial aggressor is the first person to use force would run counter to the statute, when read as a whole, because that section "contemplates that a person may respond with physical force to a reasonably perceived threat of physical force without becoming the initial aggressor and forfeiting the defense of self-defense." (166-167)

"A defendant asserting the justification of self-defense, based on his belief that the victims were gang members, need not prove that the victims were, in fact, gang members." (178-179)

“To the extent that the trial court’s ruling precluded the defendant from testifying regarding his state of mind, the trial court abused its discretion. The exclusion of the defendant’s testimony for that purpose was not unduly prejudicial, however, because it was cumulative of other testimony that had been presented to establish his state of mind.” (180-181)

FACTUAL BACKGROUND

During an altercation in Hartford, Ramos and German Montanez confronted a group of approximately eight people after tensions involving Montanez’s relationship with a former girlfriend of one of the group members. Ramos displayed a pistol, shoved and slapped Angel Arce, pointed the pistol at the group, and began shooting after Montanez retrieved and fired a second gun. Ramos’s shots killed Angel Arce and Robert Brown and wounded David Arce. At trial, Ramos claimed self-defense based in part on his belief that members of the Latin Kings gang were among the advancing group, but the trial court excluded or limited some gang-related testimony.

PROCEDURAL HISTORY

After a jury trial, the trial court entered judgment on the guilty verdicts and imposed an effective sentence of life imprisonment without possibility of release plus five years imprisonment. Ramos appealed directly to the Connecticut Supreme Court under General Statutes § 51-199 (b), challenging the self-defense instructions and the exclusion of gang-related evidence.

DISPOSITION

affirmed

CASES CITED

- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- State v. Lemoine, 256 Conn. 193, 198-99, 770 A.2d 491 (2001)
- State v. Brown, 259 Conn. 799, 807, 792 A.2d 86 (2002)
- State v. Prioleau, 235 Conn. 274, 293, 302, 664 A.2d 743 (1995)
- State v. Jimenez, 228 Conn. 335, 340-41, 636 A.2d 782 (1994)
- State v. Ash, 231 Conn. 484, 496, 651 A.2d 247 (1994)
- State v. Smith, 212 Conn. 593, 599, 563 A.2d 671 (1989)
- State v. Williams, 202 Conn. 349, 364, 521 A.2d 150 (1987)
- State v. Barber, 173 Conn. 153, 156, 376 A.2d 1108 (1977)
- State v. Vickers, 260 Conn. 219, 224, 796 A.2d 502 (2002)
- State v. Packard, 184 Conn. 258, 281, 439 A.2d 983 (1981)
- Henderson v. Kibbe, 431 U.S. 145, 154, 97 S. Ct. 1730, 52 L. Ed. 2d 203 (1977)
- State v. Pestey, 259 Conn. 345, 372-73, 788 A.2d 496 (2002)
- State v. George B., 258 Conn. 779, 801-802, 785 A.2d 573 (2001)

- State v. Faria, 254 Conn. 613, 632-33, 758 A.2d 348 (2000)
- State v. Beltran, 246 Conn. 268, 273, 717 A.2d 168 (1998)
- State v. Carter, 232 Conn. 537, 543, 656 A.2d 657 (1995)
- State v. Kelly, 256 Conn. 23, 58 n.18, 770 A.2d 908 (2001)
- State v. Woods, 250 Conn. 807, 814-15, 740 A.2d 371 (1999)
- State v. Waz, 240 Conn. 365, 371 n.11, 692 A.2d 1217 (1997)
- Ghant v. Commissioner of Correction, 255 Conn. 1, 17, 761 A.2d 740 (2000)
- State v. Anderson, 255 Conn. 425, 438-39, 773 A.2d 287 (2001)
- State v. Barnes, 232 Conn. 740, 746-47, 657 A.2d 611 (1995)
- State v. Castro, 196 Conn. 421, 426, 493 A.2d 223 (1985)
- State v. Ferguson, 260 Conn. 339, 351, 796 A.2d 1118 (2002)
- State v. Young, 258 Conn. 79, 94-95, 779 A.2d 112 (2001)
- State v. Hamilton, 228 Conn. 234, 244, 636 A.2d 760 (1994)
- State v. Casanova, 255 Conn. 581, 592, 767 A.2d 1189 (2001)
- State v. Cavell, 235 Conn. 711, 720, 670 A.2d 261 (1996)
- State v. Pierson, 201 Conn. 211, 224, 514 A.2d 724 (1986), on appeal after remand, 208 Conn. 683, 546 A.2d 268 (1988), cert. denied, 489 U.S. 1016, 109 S. Ct. 1131, 103 L. Ed. 2d 203 (1989)
- State v. Sharpe, 195 Conn. 651, 657, 491 A.2d 345 (1985)
- State v. Zdanis, 173 Conn. 189, 196, 377 A.2d 275 (1977)
- State v. Wargo, 255 Conn. 113, 123-24, 763 A.2d 1 (2000)
- Chambers v. Mississippi, 410 U.S. 284, 289-90, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973)
- State v. Kelly, 208 Conn. 365, 375-76, 545 A.2d 1048 (1988)
- State v. Watson, 26 Conn. App. 151, 156, 599 A.2d 385 (1991), cert. denied, 221 Conn. 907, 600 A.2d 1362 (1992)
- State v. De Santis, 178 Conn. 534, 539-40, 423 A.2d 149 (1979)
- State v. DeJesus, 260 Conn. 466, 486, 797 A.2d 1101 (2002)
- Bovat v. Waterbury, 258 Conn. 574, 596, 783 A.2d 1001 (2001)
- State v. Boles, 223 Conn. 535, 549, 613 A.2d 770 (1992)

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