

SUPREME COURT OF WYOMING

Sindelar v. State

416 P.3d 764 (Wyo. 2018) · Decided March 15, 2018

SUMMARY

The Wyoming Supreme Court reviewed Todd M. Sindelar’s conviction for second-degree murder arising from the shooting death of Matthew Boyer. The court held that although the district court improperly instructed the jury regarding a duty to retreat in self-defense, the error did not result in material prejudice because the evidence showed Sindelar was the aggressor, and it affirmed the conviction.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kautz, Justice; Burke; Davis; Fox; Hill; Kautz
JURISDICTION	Wyoming
DECIDED	March 15, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sindelar appealed his second-degree murder conviction after a jury trial, arguing that the district court plainly erred in giving several jury instructions and in using a stepped verdict form.
STANDARD OF REVIEW	Because Sindelar did not object to the challenged jury instructions, the court reviewed for plain error. He had to show that the record clearly reflected the alleged error, that the district court violated a clear and unequivocal rule of law, and that he was denied a substantial right resulting in material prejudice.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Todd M. Sindelar v. State of Wyoming

TOPICS

- jury instructions
- self defense
- lesser included offense instructions
- standard of review
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice

QUESTIONS PRESENTED

1. Whether the district court plainly erred by instructing the jury that Sindelar had to retreat before using deadly force in self-defense.
2. Whether the second-degree murder instructions improperly defined maliciously and failed to define recklessly or recklessly under circumstances manifesting an extreme indifference to the value of human life.
3. Whether the district court plainly erred by failing to instruct that the State had to prove Sindelar did not act in a sudden heat of passion and by using a stepped verdict form that prevented consideration of voluntary manslaughter after a second-degree murder finding.

HOLDINGS

1. The district court incorrectly instructed the jury that Sindelar had to retreat as far as safely possible before using deadly force, because Wyoming law does not impose an absolute duty to retreat on a person who is not the aggressor. The error was harmless under the plain-error standard because the evidence overwhelmingly established that Sindelar was the aggressor, and an aggressor does have a duty to withdraw or retreat before claiming self-defense.
2. The instructions, considered as a whole, adequately conveyed the required mens rea for second-degree murder under Wyoming law, despite defining maliciously without repeating the heightened-recklessness language that appeared in the separate definition of malice. The omission did not constitute prejudicial plain error.
3. The district court did not plainly err by failing to separately define recklessly or recklessly under circumstances manifesting an extreme indifference to the value of human life.
4. The instructions and verdict form were erroneous because they did not require the State to prove beyond a reasonable doubt that Sindelar did not act in a sudden heat of passion and prevented the jury from considering voluntary manslaughter after finding second-degree murder. The errors did not warrant reversal because Sindelar failed to show material prejudice.

KEY QUOTATIONS

“This does not impose an absolute duty of retreat; it only requires that a person avoid using deadly force against another if there is a reasonable alternative available to him.” (770)

“The pivotal question for any claim of self-defense is whether the killing was necessary.” (772)

“However, there was no evidence or argument that Mr. Sindelar acted in a sudden heat of passion, so he was not prejudiced by the incorrect instructions or verdict form.” (777)

FACTUAL BACKGROUND

After a rent dispute and damage to Sindelar's home, Sindelar drove to Matthew Boyer's residence around 3:30 a.m. and shot Boyer twice at the front door. Sindelar claimed that Boyer opened the door with a knife, lunged at him, and caused him to act in self-defense. Other witnesses testified that Boyer came downstairs, opened the

door, and was immediately shot, and no knife was found near his body. The physical and forensic evidence, including the location of Boyer's body and the absence of gunshot residue, undermined Sindelar's account.

PROCEDURAL HISTORY

Sindelar was initially tried for first-degree murder in 2015, acquitted of that charge, and convicted of second-degree murder. The Wyoming Supreme Court reversed and remanded because the trial court improperly gave a flight instruction. On remand, the State charged Sindelar with second-degree murder, and a jury again convicted him in January 2017. He appealed, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Hadden v. State, 2002 WY 41, 42 P.3d 495
- Sindelar v. State, 2016 WY 88, 378 P.3d 309
- Johns v. State, 2018 WY 16, 409 P.3d 1260
- Schmuck v. State, 2017 WY 140, 406 P.3d 286
- Collins v. State, 2015 WY 92, 354 P.3d 55
- Drennen v. State, 2013 WY 118, 311 P.3d 116
- Haire v. State, 2017 WY 48, 393 P.3d 1304
- Pendleton v. State, 2008 WY 36, 180 P.3d 212
- Miller v. State, 2006 WY 17, 127 P.3d 793
- Snow v. State, 2009 WY 117, 216 P.3d 505
- Garcia v. State, 667 P.2d 1148 (Wyo. 1983)
- Wilkerson v. State, 2014 WY 136, 336 P.3d 1188
- Earley v. State, 2011 WY 164, 267 P.3d 561
- Gomez v. State, 2010 WY 108, 237 P.3d 393
- Morris v. State, 2009 WY 88, 210 P.3d 1101
- Shull v. State, 2017 WY 14, 388 P.3d 763
- Anderson v. State, 2018 WY 6, 408 P.3d 1148
- Bowlsby v. State, 2013 WY 72, 302 P.3d 913
- Landeroz v. State, 2011 WY 168, 267 P.3d 1075
- Sorrentino v. State, 31 Wyo. 129, 224 P. 420 (1924)
- Dean v. State, 2003 WY 128, 77 P.3d 692