

SUPREME COURT OF KENTUCKY

Parson v. Commonwealth

144 S.W.3d 775 (Ky. 2004) · No. 2002-SC-0103-MR · Decided October 21, 2004

SUMMARY

The Supreme Court of Kentucky reviewed Michael Wayne Parson's convictions arising from a vehicle collision, including wanton second-degree assault, multiple DUI-related offenses, criminal mischief, and related traffic offenses. The court addressed access to juror qualification forms, admission and chain of custody of urinalysis results, use of a witness deposition, waiver of confrontation rights, and the sufficiency of evidence supporting serious physical injury. The opinion affirmed the challenged rulings under the circumstances described.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Cooper; Chief Justice Lambert; Justice Graves; Justice Johnstone; Justice Keller; Justice Stumbo; Justice Wintersheimer
JURISDICTION	Kentucky
DECIDED	October 21, 2004
DOCKET	2002-SC-0103-MR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal as a matter of right from a Jefferson Circuit Court jury judgment convicting Parson of second-degree wanton assault, fourth-offense DUI, third-offense operating a motor vehicle while license revoked or suspended for DUI, first-degree criminal mischief, no motor vehicle liability insurance, and expired vehicle registration, with persistent-felony-offender enhancements.
STANDARD OF REVIEW	Abuse of discretion for rulings concerning access to juror qualification forms and evidentiary admissibility; sufficiency of the evidence and propriety of jury instructions reviewed under the applicable legal standards; constitutional error subject to harmless-error review beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Wayne Parson v. Commonwealth of Kentucky

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QUESTIONS PRESENTED

1. Whether the trial court improperly restricted Parson's access to original juror qualification forms and limited the time available to exercise peremptory strikes.
2. Whether evidence of cocaine and marijuana in Parson's urine was relevant and admissible despite the absence of quantified amounts or proof of the degree of impairment.
3. Whether the Commonwealth established a sufficient chain of custody for Parson's blood and urine samples.
4. Whether admission of the videotaped deposition of a prosecution witness violated Parson's rights under the Sixth Amendment and Section 11 of the Kentucky Constitution.
5. Whether the evidence supported instructing the jury on second-degree assault based on serious physical injury.
6. Whether prior convictions used to elevate the present DUI and operating-on-a-suspended-license offenses could also be used for persistent-felony-offender enhancement.

HOLDINGS

1. The trial court did not abuse its discretion by denying access to original juror qualification forms containing jurors' home addresses or by limiting the time for counsel to review the available forms for information that might support peremptory strikes.
2. Evidence that Parson had cocaine and marijuana in his system was relevant to the issue of wantonness and was admissible because its probative value was not substantially outweighed by unfair prejudice.
3. The Commonwealth established a sufficient chain of custody without producing every person who handled or transported the samples.
4. Parson waived his confrontation objection by agreeing, with his acquiescence, that the medical testimony could be presented by deposition; principles of estoppel and fundamental fairness also precluded him from repudiating that agreement after the Commonwealth relied on it. Even assuming error, admission of the videotaped deposition was harmless beyond a reasonable doubt.
5. The evidence supported instructing the jury on second-degree assault because prolonged substantial pain, reduced range of motion, muscle spasms, and arm numbness may constitute a prolonged impairment of health and therefore a serious physical injury.
6. The prior March 24, 1998 DUI 4th and OSL/DUI 3rd felony convictions were properly used for PFO first-degree enhancement because those convictions were not themselves used to elevate Parson's present DUI and OSL/DUI offenses to Class D felonies.

KEY QUOTATIONS

"It is voir dire that is the "sine qua non to the seating of a fair and impartial jury." (779)

"An item of evidence, being but a single link in the chain of proof, need not prove conclusively the proposition for which it is offered." (781)

"it is unnecessary to establish a perfect chain of custody or to eliminate all possibility of tampering or misidentification" (782)

"We conclude that pain is an "impairment of health." (787)

"Since those convictions were not used to enhance Appellant's present DUI and DUI/OSL convictions to Class D felonies, they were properly used for PFO enhancement under KRS 532.080(6)(b)." (789)

FACTUAL BACKGROUND

On May 30, 2000, Parson's vehicle crossed the center line in Jefferson County, Kentucky, and collided with Lisa Eberle's vehicle, injuring Eberle. Hospital testing showed a very high blood-alcohol concentration and urine positive for unquantified cocaine and marijuana. Eberle experienced persistent neck pain, headaches, muscle spasms, reduced range of motion, and arm numbness, received extensive physical therapy and continuing medical treatment, and did not return to her employment. Parson was convicted of multiple driving-related and assault offenses, and the jury imposed PFO-enhanced sentences.

PROCEDURAL HISTORY

A Jefferson Circuit Court jury convicted Parson after a vehicular collision and imposed an aggregate twenty-year sentence, including PFO first-degree enhancements. Parson challenged the handling of juror qualification forms, admission of urine-test evidence, chain of custody, admission of a videotaped deposition, the serious-physical-injury instruction, and the use of prior convictions for enhancement. The Supreme Court of Kentucky affirmed the convictions and sentences.

DISPOSITION

affirmed

CASES CITED

- Young v. Commonwealth, 968 S.W.2d 670, 675 (Ky. 1998)
- Hendley v. Commonwealth, 573 S.W.2d 662, 668 (Ky. 1978)
- Thompkins v. Commonwealth, 54 S.W.3d 147, 151 (Ky. 2001)
- Cornelison v. Commonwealth, 990 S.W.2d 609, 610 (Ky. 1999)
- Samples v. Commonwealth, 983 S.W.2d 151, 152-153 (Ky. 1998)
- Lawson v. Commonwealth, 53 S.W.3d 534, 544 (Ky. 2001)
- McCarthy v. Commonwealth, 867 S.W.2d 469, 471 (Ky. 1993)
- Estep v. Commonwealth, 957 S.W.2d 191, 193-194 (Ky. 1997)

- Bush v. Commonwealth, 839 S.W.2d 550, 555 (Ky. 1992)
- State v. McClain, 525 So. 2d 420, 421-423 (Fla. 1988)
- State v. Weitz, 500 So. 2d 657, 659 (Fla. Dist. Ct. App. 1986)
- Commonwealth v. English, 993 S.W.2d 941, 945 (Ky. 1999)
- Rabovsky v. Commonwealth, 973 S.W.2d 6, 8 (Ky. 1998)
- Love v. Commonwealth, 55 S.W.3d 816, 821 (Ky. 2001)
- California v. Green, 399 U.S. 149, 157 (1970)
- Barber v. Page, 390 U.S. 719, 725 (1968)
- Crawford v. Washington, 541 U.S. 36, 68 (2004)
- Brumley v. Wingard, 269 F.3d 629, 640 (6th Cir. 2001)
- New York v. Hill, 528 U.S. 110, 114 (2000)
- Commonwealth v. Reyes, 764 S.W.2d 62, 64-65 (Ky. 1989)
- Carter v. Commonwealth, 782 S.W.2d 597, 599-600 (Ky. 1989)
- Carter v. Sowders, 5 F.3d 975, 980-982 (6th Cir. 1993)
- Luttrell v. Commonwealth, 554 S.W.2d 75, 77-79 (Ky. 1977)
- Souder v. Commonwealth, 719 S.W.2d 730, 732 (Ky. 1986)
- Commonwealth v. Hocker, 865 S.W.2d 323, 324-325 (Ky. 1993)
- Cronin v. State, 454 A.2d 735, 736-737 (Del. 1982)
- Corman v. Commonwealth, 908 S.W.2d 122, 124 (Ky. App. 1995)
- Commonwealth v. Grimes, 698 S.W.2d 836, 837 (Ky. 1985)
- Eary v. Commonwealth, 659 S.W.2d 198, 200 (Ky. 1983)

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