

SUPREME COURT OF CALIFORNIA

People v. Loker

44 Cal. 4th 691 (Cal. 2008) · No. S045060 · Decided July 28, 2008

SUMMARY

The California Supreme Court affirmed Keith Thomas Loker’s convictions for multiple robberies, murders, attempted murder, assault, and burglary, as well as his judgment of death. The opinion addresses the admissibility of an autopsy photograph, jury instructions concerning flight, motive, and alternative theories of first degree murder, and the use of a psychiatric report during penalty-phase cross-examination. The court concluded that the asserted errors either lacked merit or were not prejudicial.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Corrigan, J.
JURISDICTION	California
DECIDED	July 28, 2008
DOCKET	S045060
DISPOSITION	affirmed
PROCEDURAL POSTURE	Automatic appeal from a judgment of death following convictions for four robberies, two first degree murders, attempted murder, assault with a deadly weapon, and second degree commercial burglary, with special-circumstance and firearm-use findings.
STANDARD OF REVIEW	The opinion applies abuse-of-discretion review to evidentiary, relevance, discovery, protective-order, and penalty-phase evidentiary rulings; forfeiture principles for claims not preserved by objection; and harmless-error review where error was found. The court also reviews instructional claims under established California and federal harmless-error principles.
PRECEDENTIAL VALUE	published and precedential California Supreme Court opinion
PARTIES	Keith Thomas Loker v. The People

TOPICS

sentencing

criminal procedure

evidence

hearsay

prosecutorial misconduct

PRACTICE AREAS

criminal law

capital punishment

criminal procedure

evidence

appellate review

QUESTIONS PRESENTED

1. Whether an autopsy photograph of a murder victim was relevant and not unduly prejudicial.
2. Whether the flight, motive, and murder instructions were legally proper and whether the jury had to unanimously agree on a particular theory of first degree murder.
3. Whether the prosecutor's use of a psychiatric report during penalty-phase cross-examination exceeded the permissible scope of character rebuttal and prejudiced defendant.
4. Whether the trial court improperly limited mitigating evidence concerning defendant's upbringing and family history.
5. Whether the trial court abused its discretion by refusing a protective order restricting prosecutorial investigation of defense witnesses.
6. Whether toxicology evidence concerning the victims' methamphetamine use was relevant and admissible.
7. Whether evidence regarding Arizona plea negotiations was properly admitted.
8. Whether the prosecutor committed misconduct through improper cross-examination and penalty-phase argument.
9. Whether the trial court improperly excluded hearsay concerning a relative's criminal conduct during the penalty phase.
10. Whether the penalty-phase instructions adequately addressed mitigation, sympathy, and the burden applicable to mitigating factors.

HOLDINGS

1. The trial court properly admitted the autopsy photograph because it was relevant to the nature and placement of the fatal wounds, supported the prosecution's theory, and was not unduly prejudicial.
2. The challenged flight and motive instructions were proper, and the jury was not required to unanimously agree whether first degree murder rested on premeditation or felony murder.
3. The prosecutor and trial court committed several errors by using the Gaughan report as broad, suggestive, and sometimes irrelevant rebuttal, but the errors did not prejudice the penalty verdict.
4. The trial court did not violate defendant's constitutional right to present mitigating evidence by excluding marginal, speculative, cumulative, or irrelevant testimony concerning other family members and the religious community.
5. The trial court did not abuse its discretion by refusing to continue a protective order that would have restricted the prosecution from investigating defense witnesses and matters the defense intended to

present.

6. The trial court properly excluded evidence that two victims had methamphetamine in their systems because it had negligible impeachment value and was not relevant to guilt, penalty, or victim-impact issues.
7. The prosecutor improperly injected personal experiences and beliefs into penalty-phase argument, but the error was harmless; other challenged argument was forfeited or not prejudicial.
8. The trial court was not required to instruct that mitigating factors need not be proved beyond a reasonable doubt or unanimously, and the instructions adequately informed the jury that sympathy and compassion could be considered.

KEY QUOTATIONS

“[T]he scope of rebuttal must be specific, and evidence presented or argued as rebuttal must relate directly to a particular incident or character trait defendant offers in his own behalf.” (44 Cal. 4th at 710)

“The Eighth Amendment to the United States Constitution requires that a capital jury be permitted to consider “as a mitigating factor, any aspect of a defendant’s character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death.”” (44 Cal. 4th at 727)

“However, defendant is correct that “prosecutors should not purport to rely in jury argument on their outside experience or personal beliefs based on facts not in evidence.”” (44 Cal. 4th at 739)

FACTUAL BACKGROUND

In November 1991, defendant entered an adult bookstore in Fontana while armed, shot three people, killed two, robbed victims, and took money and merchandise. He fled to Arizona, committed additional armed crimes including robbery, attempted murder, kidnapping, rape, and aggravated assaults, and was later apprehended after a high-speed chase. At trial he conceded responsibility but argued that intoxication, lack of premeditation, and the circumstances of his upbringing mitigated guilt and punishment.

PROCEDURAL HISTORY

A jury convicted defendant and returned a judgment of death. Defendant challenged numerous guilt-phase and penalty-phase evidentiary, instructional, discovery, prosecutorial-conduct, and constitutional rulings. The Supreme Court of California reviewed the judgment on automatic appeal and affirmed it.

DISPOSITION

affirmed

CASES CITED

- People v. Pride, 3 Cal. 4th 195, 243 (1992)
- People v. Scheid, 16 Cal. 4th 1, 18 (1997)
- People v. Smithey, 20 Cal. 4th 936, 974, 983, 995-996 (1999)

- People v. Zambrano, 41 Cal. 4th 1082, 1160, 1186 (2007)
- People v. Nakahara, 30 Cal. 4th 705, 712-713 (2003)
- People v. Rodriguez, 42 Cal. 3d 730, 791-792 & n.24 (1986)
- People v. Ramirez, 50 Cal. 3d 1158, 1193 (1990)
- In re Lucas, 33 Cal. 4th 682, 733 (2004)
- People v. Superior Court (Mitchell), 5 Cal. 4th 1229, 1238 (1993)
- Izazaga v. Superior Court, 54 Cal. 3d 356, 382 (1991)
- Green v. Georgia, 442 U.S. 95, 97 (1979)
- People v. Kaurish, 52 Cal. 3d 648, 704 (1990)
- People v. Medina, 11 Cal. 4th 694, 776 (1995)
- People v. Lancaster, 41 Cal. 4th 50, 102, 105 (2007)
- People v. Gray, 37 Cal. 4th 168, 215 (2005)

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