

SUPREME COURT OF FLORIDA

State v. Barrow

91 So. 3d 826 (Fla. 2012) · Decided May 31, 2012

SUMMARY

The Florida Supreme Court reviewed whether a trial court abused its discretion by denying a deliberating jury’s request for specific witness transcripts without advising the jury that testimony could potentially be read back. The court held that the trial court erred and that the error was not harmless beyond a reasonable doubt because the requested testimony involved conflicting evidence and important credibility issues. The court approved the Fourth District Court of Appeal’s decision granting Barrow a new trial.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Quince, J.; Canady, C.J.; Labarga, J.; Lewis, J.; Pariente, J.; Perry, J.; Polston, J.
JURISDICTION	Florida
DECIDED	May 31, 2012
DISPOSITION	approved
PROCEDURAL POSTURE	The State invoked the Florida Supreme Court's discretionary jurisdiction based on the Fourth District Court of Appeal's certification of conflict with the Third District's decision in Hazuri v. State. The Supreme Court reviewed whether the trial court abused its discretion by denying the deliberating jury's request for witness transcripts without informing it that it could request a read-back.
STANDARD OF REVIEW	Abuse of discretion for the trial court's handling of a jury request for trial testimony; harmless-error review requiring the State to prove beyond a reasonable doubt that the error did not contribute to the verdict.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding precedent in Florida.
PARTIES	State of Florida v. Mark Barrow

TOPICS

jury instructions

criminal procedure

evidence

PRACTICE AREAS

criminal procedure

criminal appellate practice

jury deliberations

harmless error

QUESTIONS PRESENTED

1. Whether a trial court abuses its discretion when it denies a deliberating jury's request for specific trial transcripts without informing the jury that it may request a read-back of testimony.
2. Whether the trial court's error was harmless beyond a reasonable doubt.

HOLDINGS

1. When a jury requests trial transcripts during deliberations, the trial court should deny the request for physical transcripts but must inform the jury of the possibility of requesting a read-back. The court must not use language that could mislead the jury into believing read-backs are prohibited.
2. The error was not harmless beyond a reasonable doubt, and Barrow was entitled to a new trial.

KEY QUOTATIONS

“Thus, we adopted the following two rules in order to give the proper effect to rule 3.410: “(1) a trial court should not use any language that would mislead a jury into believing read-backs are prohibited, and (2) when a jury requests trial transcripts, the trial judge should deny the request, but inform the jury of the possibility of a read-back.”” (834)

“Based on the quality of the testimonies presented at trial, and the fact that witness credibility was extremely important in this case, we cannot conclude beyond a reasonable doubt that the absence of a review of the testimonies sought by the jury did not contribute to the guilty verdict.” (835-36)

FACTUAL BACKGROUND

Mark Barrow was charged with first-degree murder after Rae Michelle Tener disappeared and her body was never found. The State presented conflicting testimony from party attendees and relied substantially on testimony from Barrow's girlfriend, Peggy, that Barrow confessed to killing Tener and disposing of her body. During deliberations, the jury requested transcripts of testimony from several key witnesses, but the trial court merely stated that no transcripts were available and instructed the jury to rely on the evidence presented, without advising it that a read-back could be requested.

PROCEDURAL HISTORY

Barrow was convicted of first-degree murder and sentenced to life imprisonment. The Fourth District reversed and remanded for a new trial, holding that the trial court abused its discretion by responding to the jury's transcript request without advising it about the possibility of a read-back, and certified conflict with Hazuri. The Florida Supreme Court approved the Fourth District's decision and held that the error was not harmless beyond a reasonable doubt.

DISPOSITION

approved

REMAND INSTRUCTIONS

The Fourth District's decision reversing Barrow's conviction and remanding for a new trial was approved.

CASES CITED

- Barrow v. State, 27 So. 3d 211 (Fla. 4th DCA 2010)
- Hazuri v. State, 91 So. 3d 836 (Fla. 2012)
- Avila v. State, 781 So. 2d 413 (Fla. 4th DCA 2001)
- Roper v. State, 608 So. 2d 533 (Fla. 5th DCA 1992)
- Sutton v. State, 51 So. 2d 725 (Fla. 1951)
- In re Amendments to Fla. Rules of Civil Procedure, 967 So. 2d 178 (Fla. 2007)
- Johnson v. State, 53 So. 3d 1003 (Fla. 2010)
- Ventura v. State, 29 So. 3d 1086 (Fla. 2010)
- State v. DiGuilio, 491 So. 2d 1129 (Fla. 1986)
- Steinmann v. State, 839 So. 2d 832 (Fla. 4th DCA 2003)
- Meyers v. State, 704 So. 2d 1368 (Fla. 1997)