

SUPREME COURT OF DELAWARE

Flowers v. State

858 A.2d 328 (Del. 2004) · No. No. 264, 2003 · Decided August 31, 2004

SUMMARY

The Supreme Court of Delaware affirmed Damone Flowers's convictions for first-degree murder and possession of a firearm during the commission of a felony. The court rejected challenges concerning the voluntariness and admission of a witness's prior statement, prosecutorial remarks, unsolicited references to Flowers's incarceration, and a witness's disclosure that defense counsel had previously represented him.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Steele, Chief Justice; Holland, Justice; Berger, Justice; Jacobs, Justice; Chandler, Chancellor
JURISDICTION	Delaware
DECIDED	August 31, 2004
DOCKET	No. 264, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from Flowers's convictions for first-degree murder and possession of a firearm during the commission of a felony, following denial of his motion for a new trial.
STANDARD OF REVIEW	Voluntariness of the witness's out-of-court statement was reviewed by evaluating the record and the circumstances of the interrogation. The unobjected-to opening-statement remark was reviewed for plain error. Denials of motions for mistrial and a new trial were reviewed for abuse of discretion, including whether curative instructions removed unfair prejudice.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion; precedential
PARTIES	Damone Flowers v. State of Delaware

TOPICS

- evidence
- criminal procedure
- prosecutorial misconduct
- harmless error
- appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly admitted Ronetta Sudler's videotaped out-of-court statement identifying Flowers as the shooter after finding that it was voluntarily given.
2. Whether the prosecutor's reference to a purported eyewitness 'code of silence' during opening statement constituted plain error.
3. Whether the prosecutor's elicitation, or alleged elicitation, of a witness's reference to Flowers's recent release from jail required a mistrial or new trial.
4. Whether an unsolicited disclosure that defense counsel had previously represented a prosecution witness required a mistrial because it prejudiced Flowers and his defense.

HOLDINGS

1. The trial court properly admitted Sudler's videotaped statement because the record supported its factual finding that the statement was voluntary. Police inducements or promises do not make a statement per se involuntary unless they are so extravagant or impressionable that they overbear the person's will and rational thinking process.
2. The prosecutor's reference to a 'code of silence' in opening statement did not constitute plain error because the record, including the reluctant and evasive testimony of eyewitnesses, supported a reasonable inference that such a pattern existed and Flowers did not show that the remark affected the outcome or deprived him of a fundamentally fair trial.
3. The trial court did not abuse its discretion by denying a mistrial or new trial after a witness made an unsolicited reference to Flowers's recent release from jail because the reference was vague and fleeting, the prosecutor did not intend to elicit it, and the immediate curative instruction cured any unfair prejudice.
4. The trial court did not abuse its discretion by denying a mistrial after a prosecution witness disclosed that defense counsel had previously represented him because the disclosure did not affect the outcome, and meaningful and practical alternatives—including instructions and limited follow-up questioning—adequately addressed any potential prejudice.

KEY QUOTATIONS

"Promises of leniency or inducements to cooperate may affect the reliability or trustworthiness of a statement, but they do not make a statement per se involuntary unless they are "so extravagant, or so impressionable as to overbear the person's will and rational thinking process." (at 330)

"The extreme remedy of a mistrial is required only where no "meaningful and practical alternatives" are available to remedy an error at trial." (at 335)

"This case did not turn on the credibility of Flowers' trial counsel; it turned on the credibility of the five

eyewitnesses who corroborated the basic facts about the shooting and the shooter.” (at 335)

FACTUAL BACKGROUND

On August 1, 1998, Alfred Smiley was shot in the chest while driving near 22nd and Lamotte Streets in Wilmington, Delaware, and later died. The State presented five witnesses who were alleged to have been present at the shooting, relying substantially on pretrial taped statements identifying Flowers as the shooter. Flowers did not testify or present witnesses, and the jury convicted him of first-degree murder and possession of a firearm during the commission of a felony.

PROCEDURAL HISTORY

A Superior Court jury convicted Flowers of first-degree murder and possession of a firearm during the commission of a felony. The trial court denied his motion for a new trial. On direct appeal, Flowers challenged the admission of a witness's taped statement, prosecutorial remarks and testimony, and the denial of mistrial motions. The Supreme Court of Delaware affirmed.

DISPOSITION

affirmed

CASES CITED

- Black v. State, 616 A.2d 320, 323 (Del. 1992)
- Roth v. State, 788 A.2d 101, 108 (Del. 2001)
- State v. Rooks, 401 A.2d 943, 948 (Del. 1979)
- Clayton v. State, 765 A.2d 940, 942 (Del. 2001)
- Trump v. State, 753 A.2d 963, 964-65 (Del. 2000)
- United States v. Olano, 507 U.S. 725, 732-34, 113 S. Ct. 1770, 123 L. Ed. 2d 508 (1993)
- Wainwright v. State, 504 A.2d 1096, 1100 (Del. 1986)
- Taylor v. State, 685 A.2d 349, 350 (Del. 1996)
- Sawyer v. State, 634 A.2d 377, 380 (Del. 1993)
- Steckel v. State, 711 A.2d 5, 11 (Del. 1998)
- Ashley v. State, 798 A.2d 1019, 1022 (Del. 2002)
- Dawson v. State, 637 A.2d 57, 62 (Del. 1994)
- Bailey v. State, 521 A.2d 1069, 1077 (Del. 1987)
- State v. Flowers, Del. Super., Id# XXXXXXXXXXXX (Feb. 5, 2003) (Order)