

INDIANA SUPREME COURT

Robert Lewis III v. State of Indiana

34 N.E.3d 240 (Ind. 2015) · No. 45S00-1312-LW-512 · Decided June 17, 2015

SUMMARY

The Indiana Supreme Court affirmed Robert Lewis III's convictions for murder, murder in the perpetration of criminal deviate conduct, criminal deviate conduct, and resisting law enforcement. The court held that the evidence was sufficient, that omission of a reasonable-theory-of-innocence instruction was not fundamental error, and that improperly admitted habit evidence was harmless. The court reversed the life-without-parole sentence because the sentencing order lacked the trial judge's personal conclusion that the sentence was appropriate, and remanded for a revised sentencing order.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Justice Massa; Chief Justice Rush; Justice Dickson; Justice Rucker; Justice David
JURISDICTION	Indiana
DECIDED	June 17, 2015
DOCKET	45S00-1312-LW-512
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from jury convictions for murder, murder in the perpetration of criminal deviate conduct, criminal deviate conduct, and resisting law enforcement, and from the trial court's sentence of life imprisonment without parole plus three years for resisting law enforcement.
STANDARD OF REVIEW	For sufficiency of the evidence, the court considers only probative evidence and reasonable inferences supporting the verdict, without reweighing evidence or reassessing witness credibility. Unpreserved instructional-error claims are reviewed for fundamental error. Evidentiary rulings are reviewed for abuse of discretion, and erroneous admission of evidence is disregarded as harmless unless it affects the defendant's substantial rights. Sentencing-order compliance with applicable legal requirements is reviewed as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to prove criminal deviate conduct.
2. Whether the trial court's failure to give a reasonable-theory-of-innocence jury instruction constituted fundamental error.
3. Whether the trial court reversibly erred by admitting testimony about Lewis's prior conduct while consuming alcohol as habit evidence under Indiana Evidence Rule 406.
4. Whether the sentencing order imposing life without parole was legally adequate and whether the trial court had discretion to impose a lesser sentence.

HOLDINGS

1. The evidence was sufficient for a reasonable jury to conclude beyond a reasonable doubt that Lewis engaged in nonconsensual deviate sexual conduct through direct contact with his penis or penetration with an object.
2. The failure to give the requested reasonable-theory-of-innocence instruction was not fundamental error because the actus reus was not established exclusively by circumstantial evidence.
3. The testimony did not qualify as habit evidence under Indiana Evidence Rule 406 and was inadmissible character evidence under Rule 404(b), but its admission was harmless and did not require reversal.
4. The sentencing order was legally inadequate because it did not contain the trial judge's personal conclusion that life without parole was the appropriate punishment for Lewis and the crime.
5. Indiana Code section 35-50-2-9(g) does not require the trial court to impose life without parole once the subsection (l) conditions are satisfied; the trial court retains discretion to impose a lesser term-of-years sentence.

KEY QUOTATIONS

"In Harrison v. State, we held that a trial court's sentencing order imposing a capital sentence must, at a minimum, address the following four issues: (1) "identify each mitigating and aggravating circumstance found"; (2) "include the specific facts and reasons which lead the court to find the existence of each such circumstance"; (3) "articulate that the mitigating and aggravating circumstances have been evaluated and balanced in determination of the sentence"; and (4) "the trial court's personal conclusion that the sentence is appropriate punishment for this offender and this crime."" (34 N.E.3d at 249)

“Subsection (g) does not require a trial court to impose no less than a sentence of life without possibility of parole if the conditions of subsection (l) are found to exist; rather, it provides that one of those sentences may only be imposed if the subsection (l) conditions are met. The trial court has the same discretion as the jury to impose a lesser sentence, irrespective of the subsection (l) analysis.” (34 N.E.3d at 250)

FACTUAL BACKGROUND

Lewis left a bar with Jennifer Kocsis after falsely representing that his home was nearby. Kocsis was later found beaten and strangled, with her clothing pulled down, and evidence showed Lewis's blood on her car's steering wheel, his DNA in and around her anus, and a shoe-print match to his shoes. Lewis discarded and burned bloody clothing, shoes, and Kocsis's car keys after the killing. The trial court sentenced him to life without parole after the jury failed to agree on a sentence recommendation.

PROCEDURAL HISTORY

Lewis was tried before a jury in the Lake County Superior Court. The jury convicted him of all charged offenses except robbery and was unable to agree on a sentence recommendation. The trial court then conducted the sentencing hearing and imposed life imprisonment without parole plus three years for resisting law enforcement. Lewis appealed directly to the Indiana Supreme Court, which affirmed the convictions but reversed the life-without-parole sentence and remanded for a revised sentencing order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Lake County Superior Court for a revised sentencing order consistent with Harrison and Pittman, including the judge's personal conclusion that life without parole is the appropriate punishment if that sentence is imposed, and with recognition that the court may impose a lesser sentence.

CASES CITED

- Harrison v. State, 644 N.E.2d 1243, 1262 (Ind. 1995)
- Pittman v. State, 885 N.E.2d 1246, 1252-53 (Ind. 2008)
- Matheney v. State, 583 N.E.2d 1202, 1208 (Ind. 1992)
- Downey v. State, 726 N.E.2d 794, 797-98 (Ind. Ct. App. 2000)
- Griesemer v. State, 26 N.E.3d 606, 608 (Ind. 2015)
- Hampton v. State, 961 N.E.2d 480, 491, 494-95 (Ind. 2012)
- Treadway v. State, 924 N.E.2d 621, 633 (Ind. 2010)
- Mathews v. State, 849 N.E.2d 578, 587 (Ind. 2006)
- Brown v. State, 929 N.E.2d 204, 207 (Ind. 2010)
- Wilson v. State, 765 N.E.2d 1265, 1270 (Ind. 2002)
- Carlson v. Warren, 878 N.E.2d 844, 850 (Ind. Ct. App. 2007)

- Wanke v. Lynn's Transportation Co., 836 F. Supp. 587, 594 (N.D. Ind. 1993)
- Dowdy v. State, 672 N.E.2d 948, 951 (Ind. Ct. App. 1996)
- Thompson v. Boggs, 33 F.3d 847, 854 (7th Cir. 1994)
- Simplex, Inc. v. Diversified Energy Systems, Inc., 847 F.2d 1290, 1293 (7th Cir. 1988)
- Pavey v. State, 764 N.E.2d 692, 704 (Ind. Ct. App. 2002)
- Turben v. State, 726 N.E.2d 1245, 1247 (Ind. 2000)
- Buchanan v. State, 767 N.E.2d 967, 969-70 (Ind. 2002)
- Dennis v. State, 908 N.E.2d 209, 213 (Ind. 2009)

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