

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State v. Hatcher

211 W. Va. 738 (2002) · Decided June 27, 2002

SUMMARY

The Supreme Court of Appeals of West Virginia reversed Bethel Hatcher’s first-degree murder conviction and remanded for a new trial. The court held that a juror’s failure to disclose that the juror’s mother had been murdered and that a prosecution witness had investigated the murder denied Hatcher a fair trial. The court also held that the prosecutor’s repeated misstatement that premeditation could be formed instantaneously was not adequately cured by the trial court’s response.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	June 27, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Hatcher appealed his first-degree murder conviction and denial of a motion for a new trial, asserting that a juror failed to disclose material and potentially disqualifying information during voir dire and that the prosecutor misstated the law of premeditation during closing argument.
STANDARD OF REVIEW	The court reviewed the denial of the motion for a new trial based on juror disqualification and assessed whether the prosecutor's preserved misstatement of law, absent an adequate curative instruction, prejudiced the defendant.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Bethel Hatcher v. State

TOPICS

- jury selection
- curative instructions
- jury instructions
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the defendant was denied a fair trial when a juror failed to disclose, in response to direct voir dire questions, material information concerning a family member's murder and the juror's connection to a prosecution witness who investigated that murder.
2. Whether the defendant was prejudiced by the prosecutor's repeated misstatement that premeditation for first-degree murder could be formed in an instant, when the trial court failed to give a proper corrective instruction.
3. Whether the defendant's pre-indictment-delay claim warranted relief.

HOLDINGS

1. A juror's failure to disclose highly important and potentially disqualifying information in response to direct voir dire inquiries denied the defendant a fair trial when the defendant was diligent in discovering the information and prejudice or injustice resulted from the juror's participation.
2. A trial court must provide a proper corrective instruction when a prosecutor repeatedly and materially misstates the law of premeditation during closing argument; merely telling the jury that it must follow the court's written instructions, without stating the correct law, does not cure the error.
3. The defendant's assignment of error concerning pre-indictment delay was without merit.

KEY QUOTATIONS

“Based on this syllabus point, we conclude that in the instant case the presence on the jury of a juror who for whatever reason failed to disclose highly important and potentially disqualifying information despite a direct inquiry about that information denied the defendant a fair trial.” (at 740-741)

“We have never held that the fact that the law is correctly stated in a written charge that the jury takes to the jury room will cure a serious and repeated misstatement of the law by a prosecutor in closing argument.” (at 742)

FACTUAL BACKGROUND

Hatcher was convicted of murdering Phyllis Rogers, with whom he had lived and who disappeared in late 1992; her remains were discovered in 1994, and Hatcher was arrested and charged in 1998. The prosecution relied on contested circumstantial, forensic, and alleged third-party statement evidence. A juror did not disclose that the juror's mother had been murdered in a domestic-violence situation or that a prosecution witness had investigated the murder. During closing argument, the prosecutor repeatedly told the jury that premeditation could be formed in an instant, and the trial court did not tell the jury the correct legal rule after defense counsel objected.

PROCEDURAL HISTORY

Hatcher was convicted of first-degree murder in the Circuit Court of Summers County on February 2, 2000, and the jury recommended mercy. After learning that a juror had failed to disclose that the juror's mother had been

murdered in a domestic-violence situation and that a prosecution witness had investigated that murder, Hatcher moved for a new trial; the motion was denied. During closing argument, the prosecutor repeatedly stated that premeditation could be formed in an instant, despite a contemporaneous objection. The Supreme Court of Appeals of West Virginia reversed the conviction and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The conviction was reversed and the case remanded to the Circuit Court of Summers County for further proceedings.

CASES CITED

- State v. Dean, 134 W. Va. 257, 58 S.E.2d 860 (1950)
- Watkins v. Baltimore & Ohio Railroad Co., 130 W. Va. 268, 43 S.E.2d 219 (1947)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- State v. Schrader, 172 W. Va. 1, 302 S.E.2d 70 (1982)
- State v. Starr, 158 W. Va. 905, 216 S.E.2d 242 (1975)