

SUPREME COURT OF LOUISIANA

State v. Broussard

852 So. 2d 978 (La. 2003) · Decided June 26, 2003

SUMMARY

The Louisiana Supreme Court vacated the court of appeal’s order and remanded the case after addressing the random allotment of a capital case among judicial divisions. The court held that the district attorney’s office had no direct role in assigning the case and that, absent actual prejudice to due process rights, reallotment was unwarranted; it therefore affirmed the trial court’s ruling.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	June 26, 2003
DISPOSITION	vacated
PROCEDURAL POSTURE	The Supreme Court of Louisiana granted review of a court of appeal order concerning reassignment of a capital case among divisions of the Fifteenth Judicial District.
STANDARD OF REVIEW	The court reviewed the allotment procedure for compliance with due process and the governing judicial-assignment precedents.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion

TOPICS

- criminal procedure
- due process
- procedural due process
- constitutional law

PRACTICE AREAS

- criminal procedure
- constitutional law

QUESTIONS PRESENTED

- Whether the allotment procedure for respondent's capital case violated due process because the district attorney's office retained a role in selecting the judge.
- Whether respondent was entitled to reallotment of his case based on the procedures used in the Fifteenth Judicial District.

HOLDINGS

1. The allotment procedure did not violate due process because the district attorney's office had no direct role in assigning respondent's case and the case was randomly assigned by computer among the judges handling criminal matters.
2. Reallotment was unwarranted.

KEY QUOTATIONS

*"To meet due process requirements, capital *979and other felony cases must be- allotted for trial to the various divisions of the court, or to judges assigned criminal court duty, on a random or rotating basis or under some other procedure adopted by the court which does not vest the district attorney with power to choose the judge to whom a particular case is assigned."* (978-79)

"Accordingly, because the district attorney's office had no direct role in the allotment procedure in violation of Simpson and Rideau, and because respondent has shown no actual prejudice to his due process rights, we find no basis for ordering reallotment of the present case." (979)

FACTUAL BACKGROUND

In 1999, after one capital case had already been allotted, the respondent's case was assigned by random computer allotment to Division F from a pool of ten judges handling criminal matters in the Fifteenth Judicial District. The criminal docket clerk testified that although district attorney personnel theoretically could determine which cases were assigned to which judges, no one from the district attorney's office had asked which judges remained in the allotment pool. The Supreme Court found that these circumstances excluded any reasonable possibility that the district attorney's office was directly involved in assigning respondent's case, and the respondent showed no actual prejudice to his due process rights.

PROCEDURAL HISTORY

The respondent moved to reallot his capital case, asserting that the allotment procedure violated due process under *State v. Simpson* and *State v. Rideau*. The trial court denied reallotment. The court of appeal entered an order that was reviewed by the Supreme Court, which vacated that order, remanded to the appropriate division of the Fifteenth Judicial District, and concluded that the trial court's ruling should be affirmed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The order of the court of appeal was vacated, and the case was remanded to the division of the Fifteenth Judicial District to which it had been allotted. The trial court's ruling denying reallotment was affirmed.

CASES CITED

- *State v. Simpson*, 551 So. 2d 1303 (La. 1989)

- State v. Rideau, 802 So. 2d 1280 (La. 2001)

OPINION

JJPER, J.

JjPER CURIAM. Granted. The order of the court of appeal is vacated and this case is remanded to the division of court in the 15th Judicial District to which it has been allotted. In State v. Simpson, 551 So.2d 1303, 1304 (La.1989), this Court held that “[t]o meet due process requirements, capital *979and other felony cases must be- allotted for trial to the various divisions of the court, or to judges assigned criminal court duty, on a random or rotating basis or under some other procedure adopted by the court which does not vest the district attorney with power to choose the judge to whom a particular case is assigned.” (footnotes omitted).

Simpson addressed an allotment procedure in which, according to the stipulation of the parties, “the judges [were] chosen by the district attorney’s office.” Id., 551 So.2d at 1304, n. 1. In State v. Rideau, 01-3146 (La.11/29/01), 802 So.2d 1280, we subsequently made clear that a procedure for randomly allotting capital cases on a rotating basis until all divisions of the court had been assigned a capital case did not satisfy Simpson because the District Attorney still retained a direct role, albeit a diminished one, in the allotment procedure.

We specifically noted that “[b]ecause the District Attorney has the ability, by process of | ^elimination, to know the final judge in the pool to be assigned the next number capital case, and because the district attorney has the right to assign the case number in capital, cases when indictments are handed down, in this case the system currently in use in the Fourteenth Judicial District Court violates [Simpson].” Rideau, 01-3146 at p. 1, 802 So.2d at 1280 (emphasis added).

At the hearing conducted on respondent’s motion to reallocate his case, Irene Holbert, who has served as the criminal docket clerk for the Lafayette Parish Clerk of Court’s office for the past 22 years, testified that while it was possible for the personnel of the district attorney’s office to “sit down and figure out what cases were allotted to who[m],” no one from that office had ever come to her to inquire which judges remained in the allotment pool.

Holbert further testified that in 1999, the year respondent was indicted, one capital case had been previously allotted, leaving 10 judges in the remaining pool of judges assigned criminal matters in the 15th Judicial District.¹ Respondent’s case was then assigned by random allotment by computer to Division F. These circumstances excluded any reasonable possibility that the district attorney’s office was directly involved in the allotment of respondent’s case.

Accordingly, because the district attorney’s office had no direct role in the allotment procedure in violation of Simpson and Rideau, and because respondent has shown no actual prejudice to his due process rights, we find no basis for ordering reallocation of the present case.

The ruling of the trial court is therefore affirmed.. We note that Holbert also testified that in December of 2001, the allotment procedure for capital cases in the 15th Judicial District changed, apparently in response to our decision in Rideau, and now calls for strict random allotment of each capital case among all of the divisions assigned criminal matters.

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