

SUPREME COURT OF THE STATE OF WASHINGTON

State v. Knapp

Knapp · No. 98067-5 · Decided May 6, 2021

SUMMARY

The Washington Supreme Court held that jury instructions in Leland Knapp’s second-degree rape trial adequately conveyed that the State bore the burden of proving forcible compulsion, including the absence of consent as part of that element. The court concluded that consent and forcible compulsion are mutually exclusive and that the instructions, read as a whole, were not misleading and permitted Knapp to argue his consent defense. The court affirmed Knapp’s conviction and the Court of Appeals.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Stephens, J.
JURISDICTION	Washington
DECIDED	May 6, 2021
DOCKET	98067-5
DISPOSITION	affirmed
PROCEDURAL POSTURE	Knapp appealed his second degree rape conviction, arguing that the trial court's jury instructions on forcible compulsion and consent violated due process by failing to expressly state that the State bore the burden of proving lack of consent beyond a reasonable doubt. The Washington Court of Appeals, Division Three, affirmed, and the Washington Supreme Court granted review.
STANDARD OF REVIEW	Jury-instruction challenges concerning the accuracy and adequacy of legal instructions are reviewed de novo.
PRECEDENTIAL VALUE	published, precedential Washington Supreme Court en banc opinion
PARTIES	Leland Hohn Knapp IV v. State of Washington

TOPICS

[jury instructions](#)[criminal procedure](#)[due process](#)[burden of proof instructions](#)[standard jury instructions](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court's jury instructions adequately conveyed that the State bears the burden of proving lack of consent as part of its proof of forcible compulsion in a prosecution for second degree rape.
2. Whether Knapp's proposed instructions improperly treated lack of consent as a separate element of second degree rape by forcible compulsion.
3. Whether the jury instructions, considered as a whole, were constitutionally adequate because they stated the elements and the State's burden of proof, were not misleading, and permitted Knapp to present his consent theory.

HOLDINGS

1. The jury instructions were constitutionally adequate because, taken as a whole, they placed on the State the burden of proving every element of second degree rape, including forcible compulsion, and permitted the jury to consider evidence of consent in determining whether forcible compulsion existed. A separate express instruction that the State must prove lack of consent beyond a reasonable doubt was not required.
2. Lack of consent is not a separate and distinct element of second degree rape by forcible compulsion; it is encompassed within the State's burden to prove forcible compulsion.

KEY QUOTATIONS

“once a defendant asserts a consent defense and provides sufficient evidence to support the defense, the State bears the burden of proving lack of consent as part of its proof of the element of forcible compulsion.” (at 7)

“The same is true here. As we explained in W.R., the State’s burden to prove lack of consent is wholly contained within its burden to prove forcible compulsion.” (at 12)

“Because the trial court’s instructions properly informed the jury of the State’s burden of proving second degree rape by forcible compulsion, were not misleading, and permitted Knapp to argue his theory of the case, we hold those instructions were constitutionally adequate.” (at 19)

FACTUAL BACKGROUND

Knapp had intercourse with B.S. at her home on February 7, 2016. The State presented evidence that Knapp used physical force, restrained B.S., and had intercourse with her despite her resistance and repeated statements that she did not consent; Knapp testified that the intercourse was consensual and occurred pursuant to a prior arrangement. The jury convicted Knapp of second degree rape by forcible compulsion after receiving Washington's revised pattern instructions concerning the elements of rape, forcible compulsion, and consent.

PROCEDURAL HISTORY

Knapp was charged with second degree rape by forcible compulsion under RCW 9A.44.050. After his second trial, the jury convicted him. The trial court had granted a new trial after the first trial because the presiding juror

had made material misrepresentations during voir dire. The Court of Appeals affirmed the conviction, and the Supreme Court affirmed the Court of Appeals and upheld the conviction.

DISPOSITION

affirmed

CASES CITED

- State v. W.R., 181 Wn.2d 757, 763-768, 336 P.3d 1134 (2014)
- State v. Imokawa, 194 Wn.2d 391, 396-403, 450 P.3d 159 (2019)
- State v. Tili, 139 Wn.2d 107, 126, 985 P.2d 365 (1999)
- State v. Acosta, 101 Wn.2d 612, 621, 683 P.2d 1069 (1984)
- State v. King, 92 Wn.2d 541, 543-546, 599 P.2d 522 (1979)
- State v. Bennett, 161 Wn.2d 303, 307, 165 P.3d 1241 (2007)
- Smith v. United States, 568 U.S. 106, 110, 133 S. Ct. 714, 184 L. Ed. 2d 570 (2013)
- State v. Riker, 123 Wn.2d 351, 367, 869 P.2d 43 (1994)
- State v. McCullum, 98 Wn.2d 484, 656 P.2d 1064 (1983)
- State v. Camara, 113 Wn.2d 631, 639, 781 P.2d 483 (1989)
- State v. Theroff, 95 Wn.2d 385, 389, 622 P.2d 1240 (1980)
- State v. Lynch, 178 Wn.2d 487, 512, 309 P.3d 482 (2013)
- State v. Severns, 13 Wn.2d 542, 544, 125 P.2d 659 (1942)
- State v. Mertz, 129 Wash. 420, 421, 225 P. 62 (1924)
- State v. Hudlow, 99 Wn.2d 1, 9, 659 P.2d 514 (1983)