

SUPREME COURT OF MINNESOTA

State of Minnesota v. Charles Ellice Mems

708 N.W.2d 526 (Minn. 2006) · No. No. A04-1608 · Decided January 26, 2006

SUMMARY

The Minnesota Supreme Court affirmed Charles Ellice Mems's convictions for first-degree premeditated murder and second-degree murder arising from the shooting death of his former girlfriend. The court held that the identification evidence was legally sufficient, the photographic identification procedure was not impermissibly suggestive, and the defendant was not deprived of a fair trial by evidentiary rulings, alleged prosecutorial misconduct, judicial bias, courtroom procedures, counsel issues, jury sequestration, jury communications, or an asserted Miranda violation.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Russell A. Anderson, Chief Justice
JURISDICTION	Minnesota
DECIDED	January 26, 2006
DOCKET	No. A04-1608
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction for first-degree premeditated murder and a sentence of life imprisonment without parole.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence to determine whether, viewing direct and circumstantial evidence in the light most favorable to the verdict, the evidence was sufficient to permit the jury to reach its conclusion. It independently reviewed whether the photographic-identification procedure was impermissibly suggestive. Other claims were reviewed under the applicable standards governing search-warrant misrepresentations, prosecutorial misconduct, judicial bias, courtroom procedure, counsel of choice, jury communications, and Miranda violations.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Minnesota
PARTIES	Charles Ellice Mems v. State of Minnesota

TOPICS

criminal procedure

evidence

suppression of evidence

miranda rights

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence identifying Mems as the shooter was legally sufficient to support the first-degree premeditated-murder conviction.
2. Whether the photographic identification was impermissibly suggestive and whether the out-of-court and in-court identifications should have been suppressed.
3. Whether alleged misrepresentations in search-warrant affidavits invalidated the warrants.
4. Whether the searches were improperly executed because the officers named in the warrants were not present at their inception.
5. Whether the prosecutor committed misconduct during closing argument.
6. Whether alleged transcription irregularities and adverse rulings demonstrated judicial bias or denied Mems a fair trial.
7. Whether courtroom communication restrictions, denial of counsel of choice, failure to call requested witnesses, jury sequestration, or communications with the jury violated Mems's constitutional rights.
8. Whether an allegedly inadequate Miranda warning violated the Fifth Amendment when the resulting statement was not admitted at trial.

HOLDINGS

1. The evidence of Mems's identity, including eyewitness testimony, police corroboration, evidence concerning the vehicle, and evidence of threats and the strained relationship, was legally sufficient to support the verdict.
2. Suppression of eyewitness-identification testimony is required on due-process grounds only when the police identification procedures were so unnecessarily suggestive as to create a very substantial likelihood of irreparable misidentification; the photographic display here was not impermissibly suggestive.
3. Alleged misrepresentations invalidate a search warrant only if they were deliberately or recklessly made and material to establishing probable cause; the alleged misrepresentations here were neither intentional nor reckless and were immaterial because the affidavits otherwise established probable cause.
4. The prosecutor did not commit misconduct during closing argument by arguing that the 911 operator did not clearly hear the license number and that the truck driver showered before the police photographed the number written on his hand.
5. Minor differences between two transcripts and adverse judicial rulings did not establish judicial bias or deprive Mems of a fair trial.

6. The district court properly regulated courtroom conduct, Mems had been afforded a fair opportunity to obtain counsel of his choice, and decisions concerning which witnesses to call were tactical decisions entrusted to trial counsel.
7. The mandatory sequestration of jurors during deliberations and the district court's substantive communication with the jury did not violate Mems's rights because the prosecution did not consent to separation and the communication occurred in open court in Mems's presence.
8. Even assuming Mems's police statement was obtained in violation of Miranda, there was no Fifth Amendment violation because the statement was not admitted at trial.

KEY QUOTATIONS

“Assessing the credibility of a witness and the weight to be given a witness's testimony is exclusively the province of the jury.” (532)

“Even assuming appellant's police statement was obtained in violation of Miranda, there was no Fifth Amendment violation where his statement was not admitted at trial.” (534)

FACTUAL BACKGROUND

Mems had previously dated the victim, Cindy Peterson, and allegedly harassed and stalked her after she ended the relationship and began dating another man. On October 23, 2002, Peterson was shot three times outside her home and died the following day. Witnesses followed a person leaving the scene to a dark Ford Explorer, and a truck driver later followed an Explorer whose license plate was reported as BJS-615, the plate associated with Mems's vehicle. Police arrested Mems after observing him arrive at his home in the Explorer, and a photographic-lineup witness identified him as resembling the driver.

PROCEDURAL HISTORY

A grand jury indicted Mems for first-degree premeditated murder, first-degree domestic assault murder, and second-degree murder. The district court dismissed the domestic-assault-murder count, and a jury found Mems guilty of first-degree premeditated murder and second-degree murder. The court entered judgment on the first-degree premeditated-murder conviction and sentenced Mems to life without parole. Mems proceeded pro se on appeal and challenged the sufficiency of the identification evidence, evidentiary rulings, prosecutorial conduct, judicial bias, counsel-of-choice and compulsory-process issues, jury sequestration and communications, and Miranda warnings.

DISPOSITION

affirmed

CASES CITED

- State v. Bliss, 457 N.W.2d 385, 390 (Minn. 1990)
- State v. Johnson, 568 N.W.2d 426, 436 (Minn. 1997)
- State v. Daniels, 361 N.W.2d 819, 826 (Minn. 1985)

- State v. Ellingson, 283 Minn. 208, 211, 167 N.W.2d 55, 57 (1969)
- Neil v. Biggers, 409 U.S. 188, 198, 93 S. Ct. 375, 34 L. Ed. 2d 401 (1972)
- Simmons v. United States, 390 U.S. 377, 384, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968)
- State v. Jones, 678 N.W.2d 1, 12 (Minn. 2004)
- State v. Moore, 438 N.W.2d 101, 105 (Minn. 1989)
- State v. Wahlberg, 296 N.W.2d 408, 419 (Minn. 1980)
- McKenzie v. State, 583 N.W.2d 744, 747 (Minn. 1998)
- United States v. Anderson, 433 F.2d 856, 860 (8th Cir. 1970)
- State v. Lindsey, 632 N.W.2d 652, 658 (Minn. 2001)
- State v. Vance, 254 N.W.2d 353, 358 (Minn. 1977)
- State v. Doppler, 590 N.W.2d 627, 633 (Minn. 1999)
- Taylor v. Illinois, 484 U.S. 400, 418, 108 S. Ct. 646, 98 L. Ed. 2d 798 (1988)
- State v. Sanders, 376 N.W.2d 196, 207 (Minn. 1985)
- State v. Sessions, 621 N.W.2d 751, 755-56 (Minn. 2001)
- Miranda v. Arizona, 384 U.S. 436, 444, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)
- Rhode Island v. Innis, 446 U.S. 291, 297, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980)
- Chavez v. Martinez, 538 U.S. 760, 767, 123 S. Ct. 1994, 155 L. Ed. 2d 984 (2003)