

DISTRICT OF COLUMBIA COURT OF APPEALS

McCrae v. United States

980 A.2d 1082 (D.C. 2009) · No. Nos. 99-CF-849, 99-CF-1534 · Decided September 10, 2009

SUMMARY

The District of Columbia Court of Appeals affirmed the convictions of Rudolph McCrae and Derrick R. Miller for conspiracy, assault with intent to kill while armed, and related firearm offenses. The court held that Miller was not entitled to a duress instruction because the evidence did not establish immediate danger or the absence of reasonable alternatives, and it rejected McCrae’s severance, prosecutorial-misconduct, and sufficiency-of-the-evidence claims.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Steadman, Senior Judge; Ruiz, Associate Judge; Kramer, Associate Judge
JURISDICTION	District of Columbia
DECIDED	September 10, 2009
DOCKET	Nos. 99-CF-849, 99-CF-1534
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed their convictions for assault with intent to kill while armed and related offenses. Miller challenged the refusal to give a duress instruction; McCrae challenged denial of severance, arguments by counsel, and the sufficiency of the evidence.
STANDARD OF REVIEW	The court reviewed the refusal to give a duress instruction for legal sufficiency of the evidentiary basis for the defense; preserved claims concerning severance and alleged improper argument under the applicable trial-error standards; unpreserved claims for plain error; and sufficiency of the evidence by viewing the evidence in the light most favorable to the government, giving full play to the jury's determinations of credibility, evidentiary weight, and reasonable inferences.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Rudolph McCrae, Derrick R. Miller v. United States

TOPICS

criminal procedure

jury instructions

appellate procedure

standard of review

preservation of error

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether the trial court erred by refusing to instruct the jury on duress as to Miller.
2. Whether the trial court erred by denying McCrae's motions for severance based on the conflict between his defense and Miller's duress defense.
3. Whether the trial court erred by failing to intervene in allegedly improper remarks by Miller's counsel and the prosecution.
4. Whether sufficient evidence supported McCrae's conspiracy conviction.
5. Whether sufficient evidence supported McCrae's assault-with-intent-to-kill-while-armed conviction concerning Officer Montanez.

HOLDINGS

1. A defendant is entitled to a duress instruction only when evidence, viewed in the defendant's favor, would permit a reasonable jury to find each required element of duress, including a reasonable belief of immediate serious bodily injury or death and the absence of a reasonable opportunity to escape without committing the crime. Miller was not entitled to the instruction because the evidence did not establish immediate harm or the absence of reasonable alternatives.
2. A trial court may deny severance when there is sufficient independent evidence of the defendant's guilt and the conflict in defenses alone would not substantially sway the jury. A codefendant's duress defense, even if it may inculcate the defendant, does not by itself require severance.
3. The challenged remarks by counsel and the prosecution did not constitute plain error or otherwise warrant reversal. McCrae failed to show error so clearly prejudicial to substantial rights that it jeopardized the fairness and integrity of the trial.
4. The evidence was sufficient to support McCrae's conspiracy conviction.
5. The evidence was sufficient to support McCrae's assault-with-intent-to-kill-while-armed conviction concerning Officer Montanez, including under an aiding-and-abetting theory.

KEY QUOTATIONS

“A duress instruction is appropriate if the evidence is sufficient for a reasonable jury to find that the defendant participated in the offense as the result of a reasonable belief that he would suffer immediate serious bodily injury or death if he did not participate in the crime.” (980 A.2d at 1086-1087)

“For such a claim to succeed, surely the facts must suggest in the first instance that every reasonable alternative to such a course of action was closed.” (980 A.2d at 1088)

FACTUAL BACKGROUND

McCrae and Miller belonged to the 1-7 Crew, which was engaged in a feud with the Holmead Crew. After prior shootings, members of the 1-7 Crew, including McCrae and Miller, obtained ammunition and firearms, planned retaliation, and traveled armed to Holmead Place. During the ensuing shooting, members of the group fired toward people in the area, including undercover Metropolitan Police Officer Miguel Montanez. A jury convicted both appellants of conspiracy, assault with intent to kill while armed, firearm offenses, and related crimes.

PROCEDURAL HISTORY

A jury convicted McCrae and Miller of conspiracy, four counts of assault with intent to kill while armed, four counts of possession of a firearm during a crime of violence, carrying a pistol without a license, and unlawful possession of a pistol. Miller was also convicted of obstruction of justice. Both defendants timely appealed, and the District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Adams v. United States, 558 A.2d 348, 349 (D.C. 1989)
- McClam v. United States, 775 A.2d 1100, 1104 (D.C. 2001)
- Bonilla v. United States, 894 A.2d 412, 417 (D.C. 2006)
- United States v. Bailey, 444 U.S. 394, 410, 415 (1980)
- Frost v. United States, 618 A.2d 653, 662 n.18 (D.C. 1992)
- Carter v. United States, 531 A.2d 956, 959 (D.C. 1987)
- Goddard v. United States, 557 A.2d 1315, 1316 (D.C. 1989)
- Hernandez v. United States, 853 A.2d 202, 205 (D.C. 2004)
- Barnhardt v. United States, 954 A.2d 973, 976 (D.C. 2008)
- United States v. Gaviria, 116 F.3d 1498, 1531 (D.C. Cir. 1997)
- United States v. Contento-Pachon, 723 F.2d 691, 694-95 (9th Cir. 1984)
- Walker v. United States, 630 A.2d 658, 663 (D.C. 1993)
- Lemon v. United States, 564 A.2d 1368, 1372 (D.C. 1989)
- Metts v. United States, 877 A.2d 113, 118 (D.C. 2005)
- Jones v. United States, 779 A.2d 357, 360 (D.C. 2001)
- Newman v. United States, 705 A.2d 246, 264 (D.C. 1997)
- McCullough v. United States, 827 A.2d 48, 58 (D.C. 2003)
- Bouknight v. United States, 867 A.2d 245, 251 (D.C. 2005)
- Wilson-Bey v. United States, 903 A.2d 818, 840 (D.C. 2006)
- O'Connor v. United States, 399 A.2d 21, 25 (D.C. 1979)

