

SUPREME COURT OF WASHINGTON

State v. Martin

171 Wash. 2d 521 (2011) · Decided May 19, 2011

SUMMARY

The Washington Supreme Court considered whether a prosecutor violated article I, section 22 of the Washington Constitution by questioning the defendant about tailoring his testimony to conform to police reports, witness statements, and prior testimony. The court held that the state constitution provides broader protection than the Sixth Amendment in this context, but concluded that the questioning was permissible because it occurred during cross-examination and responded to the defendant’s testimony. The court affirmed the Court of Appeals on different grounds.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Alexander, J.; Madsen, C.J.; C. Johnson, J.; Owens, J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	May 19, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Martin sought review in the Washington Supreme Court after the Court of Appeals affirmed his convictions for three counts of first degree kidnapping and one count of second degree robbery.
STANDARD OF REVIEW	Independent constitutional interpretation and de novo review of whether the prosecutor’s cross-examination violated article I, section 22 of the Washington Constitution.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Timothy Martin v. State of Washington

TOPICS

- sixth amendment
- criminal procedure
- evidence
- impeachment
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- criminal evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether article I, section 22 of the Washington Constitution provides protections independent of the Sixth Amendment in the context of prosecutorial questions suggesting that a defendant tailored his testimony.
2. Whether the prosecutor's cross-examination questions suggesting that Martin tailored his testimony to conform to police reports, witness statements, and prior testimony violated article I, section 22.
3. Whether the Washington Supreme Court should exercise its inherent supervisory power to prohibit prosecutorial questions suggesting that a defendant tailored testimony.

HOLDINGS

1. Article I, section 22 of the Washington Constitution is more protective than the Sixth Amendment in the context of prosecutorial suggestions that a defendant tailored testimony, and it must be analyzed independently under the Gunwall factors.
2. The prosecutor did not violate article I, section 22 by asking Martin during cross-examination whether he tailored his testimony to conform to police reports, witness statements, and testimony from other witnesses, because Martin's direct testimony opened the door to those credibility questions.
3. The court declined to exercise its inherent supervisory power to prohibit this type of cross-examination because doing so would inhibit the truth-seeking function and would not constitute sound judicial practice.

KEY QUOTATIONS

"We conclude, therefore, that the State did not violate article I, section 22 by posing questions during cross-examination that were designed to elicit answers indicating whether Martin tailored his testimony." (at 537-538)

"In conclusion, we hold that in the context of prosecutorial suggestions of tailoring, article I, section 22 is more protective than the Sixth Amendment." (at 538)

FACTUAL BACKGROUND

The State alleged that Martin abducted Jessica Sobania at a Rite Aid parking lot, drove away in her van with her children inside, and left the van at an industrial complex. Martin admitted entering the van but claimed he did so as part of a vehicle prowl when no driver was present, and that he took property before leaving. During cross-examination, the prosecutor questioned Martin about his access to police reports, witness statements, and prior testimony and suggested that he had tailored his testimony, including his testimony concerning the timing of events and the location of his DNA.

PROCEDURAL HISTORY

The Snohomish County Superior Court jury convicted Martin of three counts of first degree kidnapping and one count of second degree robbery. The Court of Appeals affirmed, holding that article I, section 22 of the Washington Constitution did not warrant an analysis independent from the Sixth Amendment and relying on

Portuondo v. Agard. The Washington Supreme Court granted review, conducted an independent Gunwall analysis, and affirmed on different grounds.

DISPOSITION

affirmed

CASES CITED

- State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986)
- Portuondo v. Agard, 529 U.S. 61, 120 S. Ct. 1119, 146 L. Ed. 2d 47 (2000)
- Brown v. United States, 356 U.S. 148, 154, 78 S. Ct. 622, 2 L. Ed. 2d 589 (1958)
- State v. Martin, 151 Wn. App. 98, 210 P.3d 345 (2009)
- State v. Foster, 135 Wn.2d 441, 957 P.2d 712 (1998)
- State v. Stentz, 30 Wash. 134, 70 P. 241 (1902)
- State v. Fire, 145 Wn.2d 152, 34 P.3d 1218 (2001)
- State v. Smith, 82 Wn. App. 327, 917 P.2d 1108 (1996)
- State v. Johnson, 80 Wn. App. 337, 908 P.2d 900 (1996)
- State v. Miller, 110 Wn. App. 283, 40 P.3d 692 (2002)
- State v. Hollister, 157 Wash. 4, 288 P. 249 (1930)
- Ferguson v. Georgia, 365 U.S. 570, 596, 81 S. Ct. 756, 5 L. Ed. 2d 783 (1961)
- Rock v. Arkansas, 483 U.S. 44, 52, 107 S. Ct. 2704, 97 L. Ed. 2d 37 (1987)
- Illinois v. Allen, 397 U.S. 337, 338, 90 S. Ct. 1057, 25 L. Ed. 2d 353 (1970)
- Lewis v. United States, 146 U.S. 370, 13 S. Ct. 136, 36 L. Ed. 1011 (1892)
- Brooks v. Tennessee, 406 U.S. 605, 612-613, 92 S. Ct. 1891, 32 L. Ed. 2d 358 (1972)
- Kentucky v. Stincer, 482 U.S. 730, 736, 107 S. Ct. 2658, 96 L. Ed. 2d 631 (1987)
- Davis v. Alaska, 415 U.S. 308, 316, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974)
- State v. Bennett, 161 Wn.2d 303, 306, 318, 165 P.3d 1241 (2007)
- State v. Pugh, 167 Wn.2d 825, 835, 225 P.3d 892 (2009)
- State v. Shafer, 156 Wn.2d 381, 391, 128 P.3d 87 (2006)

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