

COURT OF APPEALS OF MARYLAND

State v. Prue, 414 Md. 531

996 A.2d 367 (2010) · No. No. 21, Sept. Term, 2009 · Decided June 8, 2010

SUMMARY

The Maryland Court of Appeals addressed whether a trial judge's failure to announce verdicts on several counts in a multicount criminal case constituted acquittals. The court held that silence ordinarily operates as an acquittal, subject to exceptions including circumstances involving lesser-included offenses, jury instructions, or a hung jury. The court vacated the relevant portion of the Court of Special Appeals' judgment and remanded for analysis of whether counts 3 through 8 were lesser-included offenses under the required evidence test.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	John C. Eldridge, J.; Bell, C.J.; Harrell, J.; Battaglia, J.; Greene, J.; Murphy, J.; Adkins, J.; John C. Eldridge, J. (Retired, Specially Assigned)
JURISDICTION	Maryland
DECIDED	June 8, 2010
DOCKET	No. 21, Sept. Term, 2009
DISPOSITION	vacated
PROCEDURAL POSTURE	The State petitioned for a writ of certiorari from the Court of Special Appeals' decision holding that the trial judge's failure to announce verdicts on counts 3 through 8 constituted acquittals and vacating the sentence on count 2. The Court of Appeals granted certiorari to review the acquittal issue.
STANDARD OF REVIEW	De novo review of the legal effect of the trial court's failure to announce verdicts and whether the omitted counts were lesser included offenses under the required evidence test.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Maryland v. Andre Lynn Prue

TOPICS

criminal procedure

double jeopardy

appellate procedure

appellate jurisdiction

standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether a trial judge's silence when rendering verdicts on certain counts of a multicount criminal indictment ordinarily constitutes acquittals on those counts.
2. Whether the exception for a guilty verdict on a greater offense and silence on a lesser included offense applies to the omitted counts.
3. Whether the Court of Special Appeals properly ordered correction of the docket entries without determining which omitted offenses were lesser included offenses under the required evidence test.

HOLDINGS

1. When a trial judge or jury renders verdicts on some counts but remains silent on other counts, the silence ordinarily constitutes acquittals on the omitted counts, including in a nonjury criminal trial.
2. The silence-as-acquittal rule does not necessarily apply when the omitted count was not submitted because of a court instruction or verdict-sheet direction, when the jury formally disagreed, or when the omitted count charged a lesser included offense under the required evidence test.
3. The portion of the Court of Special Appeals' judgment directing correction of the docket entries for counts 3 through 8 must be vacated, and the case must be remanded for determination of which omitted offenses are lesser included offenses of counts 1 or 2.

KEY QUOTATIONS

"Unless one of a few well-established exceptions apply, when rendering verdicts in a multicount charging document, silence by a trial judge or jury on one count is equivalent to an acquittal on that count." (537)

"Such post verdict action, e.g., making entries on the docket or directing that they be made, certainly can not change what in law is a "not guilty" verdict into a "guilty" verdict." (542)

"The docket entries should be corrected only with respect to those offenses which are not included within the crimes charged in counts 1 or 2." (550)

FACTUAL BACKGROUND

Prue and Barbara Kidd were jointly operating a motorcycle when it crashed into a guardrail and curb on a bridge in Waldorf, Maryland; Kidd died and Prue was severely injured. Prue was charged with nine offenses, including vehicular manslaughter, several alcohol-related homicide and driving offenses, reckless driving, and marijuana possession. After a nonjury trial, the judge expressly found Prue guilty on counts 1, 2, and 9 but announced no verdicts on counts 3 through 8, although the docket stated that those counts merged into count 2.

PROCEDURAL HISTORY

Prue was convicted after a nonjury trial in the Circuit Court for Charles County on vehicular manslaughter, vehicular homicide while under the influence of alcohol per se, and possession of marijuana; the trial judge announced no verdicts on counts 3 through 8 but the docket stated that those counts merged into count 2. The Court of Special Appeals held that silence on counts 3 through 8 constituted acquittals, ordered correction of the docket entries, and vacated the sentence on count 2 as merged into the manslaughter sentence. The State sought certiorari only on the acquittal issue, and the Court of Appeals vacated that portion of the intermediate appellate judgment and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded to the Court of Special Appeals to determine whether the offenses charged in counts 3 through 8, or any of them, were lesser included offenses under the required evidence test. The docket entries were to be corrected only as to offenses not included within the crimes charged in counts 1 or 2.

CASES CITED

- The State v. Sutton, 4 Gill. 494 (1846)
- Hechter v. State, 94 Md. 429, 50 A. 1041 (1902)
- Selvester v. United States, 170 U.S. 262, 18 S. Ct. 580, 42 L. Ed. 1029 (1898)
- Glickman v. State, 190 Md. 516, 60 A.2d 216 (1948)
- Felkner v. State, 218 Md. 300, 146 A.2d 424 (1958)
- Reed v. State, 225 Md. 566, 171 A.2d 464 (1961)
- Jackson v. State, 231 Md. 591, 191 A.2d 432 (1963)
- Green v. United States, 355 U.S. 184, 78 S. Ct. 221, 2 L. Ed. 2d 199 (1957)
- State v. Moulden, 292 Md. 666, 441 A.2d 699 (1982)
- Dealy v. United States, 152 U.S. 539, 14 S. Ct. 680, 38 L. Ed. 545 (1894)
- Cichos v. Indiana, 385 U.S. 76, 87 S. Ct. 271, 17 L. Ed. 2d 175 (1966)
- Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180, 76 L. Ed. 306 (1932)
- Pugh v. State, 271 Md. 701, 319 A.2d 542 (1974)
- State v. Santiago, 412 Md. 28, 985 A.2d 556 (2009)
- Waller v. Maryland National Bank, 332 Md. 375, 631 A.2d 447 (1993)
- State v. Andre Lynn Prue, 407 Md. 529, 967 A.2d 182 (2009)