

SUPREME COURT OF SOUTH CAROLINA

State v. Miller, 367 S.C. 329

626 S.E.2d 328 (2006) · No. No. 26106 · Decided February 6, 2006

SUMMARY

The Supreme Court of South Carolina held that a defendant has standing to challenge the reliability of a show-up identification of an alleged co-participant when that identification is essential to the State's case and undermines the defendant's defense. The court further held that the trial court's failure to conduct an in camera hearing was not harmless error and affirmed the Court of Appeals' remand for such a hearing.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Moore; Chief Justice Toal; Justice Burnett; Justice Pleicones; Acting Justice Paula H. Thomas
JURISDICTION	South Carolina
DECIDED	February 6, 2006
DOCKET	No. 26106
DISPOSITION	affirmed
PROCEDURAL POSTURE	Miller was convicted in the trial court of armed robbery, failure to stop for a police vehicle, and unlawful possession of a pistol. The South Carolina Court of Appeals reversed and remanded for an in camera hearing concerning whether the identification of Miller's alleged accomplice, Tavo Glenn, was tainted and should be suppressed. The State sought certiorari review in the Supreme Court of South Carolina.
STANDARD OF REVIEW	The Supreme Court reviewed whether the Court of Appeals properly remanded for an in camera hearing and whether the trial court's failure to conduct such a hearing was harmless error. Harmlessness was assessed by reviewing the entire record and determining whether the error could reasonably have affected the verdict.
PRECEDENTIAL VALUE	Published and precedential opinion of the Supreme Court of South Carolina
PARTIES	The State v. Robert Earl Miller

TOPICS

criminal procedure

suppression of evidence

evidence

harmless error

appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Miller had standing to challenge the fairness and reliability of the allegedly suggestive show-up identification of his alleged co-participant, Glenn.
2. Whether the trial court's failure to conduct an in camera hearing regarding Glenn's identification was harmless error.
3. Whether the Court of Appeals properly remanded for an in camera hearing to determine whether Glenn's identification was so tainted that it required suppression.

HOLDINGS

1. Miller had standing to challenge the fairness of Glenn's show-up identification because he had a substantial personal stake in the admissibility of identification evidence that was essential to proving his participation in the robbery and that effectively destroyed his defense.
2. The trial court's failure to permit Miller to challenge Glenn's show-up identification was not harmless error because the potentially unreliable identification could reasonably have affected the verdict.
3. The Court of Appeals properly remanded for an in camera hearing to determine whether Glenn's show-up identification was so tainted that it should be suppressed; Miller was not automatically entitled to a new trial.

KEY QUOTATIONS

"Therefore, respondent has standing to challenge the fairness of the showup identification of Glenn." (at 336)

"The trial court's failure to allow respondent to challenge Glenn's showup identification was not harmless error." (at 337)

"The Court of Appeals properly remanded for an in camera hearing." (at 338)

FACTUAL BACKGROUND

An Alltel Communications store was robbed by a masked man carrying a handgun. Shortly afterward, Miller was apprehended while driving a vehicle from which a passenger, Tavo Glenn, fled; Glenn possessed approximately the amount of money stolen from the store, ammunition, and latex gloves, and a handgun was recovered from the vehicle or its vicinity. Police took Glenn, handcuffed and alone among officers, to the store, where two employees identified him as the robber. Miller denied participating in the robbery and claimed that the identification of Glenn was critical to his defense that he and Glenn had been together throughout the day but that Miller did not know about the robbery.

PROCEDURAL HISTORY

Miller was tried separately from Glenn, who had previously been convicted after the robbery victims identified him in a one-person show-up. The trial court refused Miller's request for a suppression hearing concerning Glenn's identification, reasoning that Glenn's identification was not at issue in Miller's case. The Court of Appeals remanded for an in camera hearing, and the Supreme Court affirmed that decision.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court must conduct an in camera hearing regarding the pretrial identification of Glenn to determine whether the show-up was so tainted that the identification should be suppressed. If suppression is required, Miller is entitled to a new trial.

CASES CITED

- State v. Miller, 359 S.C. 589, 598 S.E.2d 297 (Ct. App. 2004)
- State v. McKnight, 291 S.C. 110, 352 S.E.2d 471 (1987)
- State v. Clausell, 121 N.J. 298, 580 A.2d 221 (1990)
- People v. Bisogni, 4 Cal. 3d 582, 94 Cal. Rptr. 164, 483 P.2d 780 (1971)
- State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002)
- State v. Reeves, 301 S.C. 191, 391 S.E.2d 241 (1990)
- State v. Simmons, 308 S.C. 80, 417 S.E.2d 92 (1992)
- State v. Glenn, Op. No. 2003-UP-515 (S.C. Ct. App. filed Aug. 27, 2003)