

SUPREME COURT OF WYOMING

Ogden v. State

34 P.3d 271 (Wyo. 2001) · No. No. 00-4 · Decided November 8, 2001

SUMMARY

The Supreme Court of Wyoming reviewed Troy Ogden's conviction for aggravated assault arising from his driving a vehicle toward the victim. The court held that the jury instruction permitting an inference of intent was a permissible inference rather than an impermissible presumption, and that challenged opinion and credibility testimony did not constitute plain error. The conviction and sentence were affirmed.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Lehman, Chief Justice; Lehman, C.J.; Golden, J.; Hill, J.; Kite, J.
JURISDICTION	Wyoming
DECIDED	November 8, 2001
DOCKET	No. 00-4
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ogden appealed his judgment and sentence following a jury conviction for aggravated assault with a deadly weapon.
STANDARD OF REVIEW	Because Ogden did not object at trial, the Supreme Court reviewed both claims under Wyoming's three-part plain-error standard: the record must clearly present the alleged error; a clear and unequivocal rule of law must have been violated in a clear and obvious, not merely arguable, way; and the appellant must show denial of a substantial right resulting in material prejudice. Jury instructions are considered as a whole, and evidentiary testimony is reviewed under the same plain-error framework when no objection was made.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Troy Ogden v. The State of Wyoming

TOPICS

- jury instructions
- criminal procedure
- standard of review
- evidence
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate practice

QUESTIONS PRESENTED

1. Whether the trial court committed plain error by instructing the jury that it could infer intent to cause bodily injury from a finding that Ogden knowingly drove his vehicle directly at the victim.
2. Whether the trial court committed plain error by permitting the prosecution to elicit testimony from lay witnesses about whether Ogden intentionally drove toward the victim and testimony from a detective concerning the consistency and reliability of witness accounts.

HOLDINGS

1. Instruction 14 stated a permissive inference rather than a mandatory presumption and therefore did not violate a clear and unequivocal rule of law or relieve the State of its burden to prove specific intent. Read together, the jury instructions correctly stated the law and adequately addressed the issues presented.
2. The prosecution did not elicit impermissible opinions concerning Ogden's guilt or improper testimony vouching for the credibility of other witnesses. The challenged testimony was based on the witnesses' personal perceptions, was helpful to the jury, and concerned consistency and probable cause rather than ultimate guilt. No plain error occurred.

KEY QUOTATIONS

“A mandatory presumption instructs the jury that it must infer the presumed fact if the State proves certain predicate facts. A permissive inference suggests to the jury a possible conclusion to be drawn if the State proves predicate facts, but does not require the jury to draw that conclusion.” (34 P.3d at 274)

“A permissive inference violates the Due Process Clause only if the suggested conclusion is not one that reason and common sense justify in light of the proven facts before the jury.” (34 P.3d at 275)

“The mind of an alleged offender may be read from his acts, his conduct, his words and the reasonable inferences which may be drawn from the circumstances of the case.” (34 P.3d at 275)

FACTUAL BACKGROUND

Ogden was driving with his girlfriend in Casper when they encountered the victim, who had previously been romantically involved with the girlfriend and was subject to a mutual order of protection with her. After an encounter involving disputed conduct by the victim, Ogden turned his vehicle around, drove behind the victim, and stopped partly on the sidewalk. Following a verbal and physical confrontation, Ogden reentered his vehicle, which lunged toward the victim; the victim avoided being struck by jumping onto the hood. Several skateboarders witnessed the incident and later gave statements to police.

PROCEDURAL HISTORY

Ogden was initially charged with simple assault and aggravated assault with a deadly weapon. The State dismissed the simple-assault charge, and a jury convicted Ogden of aggravated assault. The trial court sentenced him to four to six years in prison, suspended on the condition that he successfully complete three years of supervised probation. Ogden appealed, challenging a jury instruction and testimony elicited by the prosecution.

DISPOSITION

affirmed

CASES CITED

- Vigil v. State, 859 P.2d 659, 663 (Wyo. 1993)
- Harris v. State, 933 P.2d 1114, 1126 (Wyo. 1997)
- CB v. State, 749 P.2d 267, 268-69 (Wyo. 1988)
- Pearson v. State, 12 P.3d 686, 690 (Wyo. 2000)
- Fuller v. State, 568 P.2d 900, 904 (Wyo. 1977)
- Schiefer v. State, 774 P.2d 133, 135 (Wyo. 1989)
- Francis v. Franklin, 471 U.S. 307, 314 (1985)
- Huff v. State, 992 P.2d 1071, 1079 (Wyo. 1999)
- Stephens v. State, 774 P.2d 60, 66, 68 (Wyo. 1989)
- Bennett v. State, 794 P.2d 879, 881 (Wyo. 1990)
- Gayler v. State, 957 P.2d 855, 860 (Wyo. 1998)
- Wells v. State, 846 P.2d 589, 596 (Wyo. 1992)
- Brown v. State, 953 P.2d 1170, 1182 (Wyo. 1998)
- Saldana v. State, 846 P.2d 604, 616 (Wyo. 1993)
- Whiteplume v. State, 841 P.2d 1332, 1340, 1344 (Wyo. 1992)
- Vargas-Rocha v. State, 891 P.2d 763, 771 (Wyo. 1995)
- Wells v. State, 846 P.2d 589, 596 (Wyo. 1992)