

SUPREME COURT OF OHIO

State v. Davis

136 Ohio St. 3d 26, 2013-Ohio-1748 (2013) · No. 2012-0830 · Decided May 2, 2013

SUMMARY

The Supreme Court of Ohio dismissed the appeal as having been improvidently accepted. Justice O’Neill, joined by Justice Lanzinger, dissented, arguing that the trial court should have instructed the jury on voluntary manslaughter and that the error was not harmless despite Davis’s acquittal on the murder charge.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; William M. O'Neill, Justice; Paul E. Pfeifer, Justice; Terrence O'Donnell, Justice; Eileen T. Gallagher, Justice; Lanzinger, Justice; French, Justice
JURISDICTION	Ohio
DECIDED	May 2, 2013
DOCKET	2012-0830
DISPOSITION	dismissed
PROCEDURAL POSTURE	Davis appealed a criminal conviction to the Supreme Court of Ohio. The Supreme Court had accepted the appeal but dismissed it as having been improvidently accepted.
PRECEDENTIAL VALUE	Published decision; precedential only as to the dismissal of the appeal as improvidently accepted, not as to the substantive issues discussed in the dissent.
PARTIES	Davis v. The State of Ohio

TOPICS

lesser included offense instructions jury instructions harmless error criminal procedure
appellate procedure

PRACTICE AREAS

criminal law criminal procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court of Ohio should dismiss the accepted appeal as improvidently accepted.
2. According to the dissent, whether the trial court was required to instruct the jury on voluntary manslaughter when the evidence, viewed favorably to Davis, supported reasonably sufficient provocation.
3. According to the dissent, whether the absence of a voluntary-manslaughter instruction was harmless when the jury acquitted Davis of murder but convicted him of felony murder.

HOLDINGS

1. The appeal was dismissed as having been improvidently accepted.

KEY QUOTATIONS

“The cause is dismissed as having been improvidently accepted.” (at 1)

“If, under any reasonable view of the evidence, it would be possible for the jury to find a defendant not guilty of the greater offense but guilty of the lesser-degree offense, the trial court is required to provide an instruction on the lesser-degree offense.” (at 3-4)

“It is not discretionary. Due process makes it a requirement.” (at 4)

“An error is harmless beyond a reasonable doubt only if there is no reasonable possibility that the error affected the defendant’s conviction.” (at 5)

FACTUAL BACKGROUND

During a fight, the victim assaulted Davis's sisters and punched Davis's pregnant girlfriend, knocking her down and possibly unconscious. After being told that the victim had hit the mother of his child, Davis crossed the street and shot the victim ten times. The trial court refused Davis's requested voluntary-manslaughter instruction, and the jury acquitted him of murder but convicted him of felony murder and felonious assault.

PROCEDURAL HISTORY

Davis was convicted in the trial court of felony murder and felonious assault after the court declined to instruct the jury on voluntary manslaughter. The convictions were merged, and Davis received an aggregate sentence of 18 years to life. The Ninth District Court of Appeals affirmed, concluding that the absence of a voluntary-manslaughter instruction was harmless because the jury acquitted Davis of murder. The Supreme Court of Ohio dismissed its accepted appeal as improvidently accepted.

DISPOSITION

dismissed

CASES CITED

- State v. Deanda, 136 Ohio St. 3d 18, 2013-Ohio-1722, 989 N.E.2d 986

- State v. Shane, 63 Ohio St. 3d 630, 632, 635, 590 N.E.2d 272 (1992)
- State v. Wilkins, 64 Ohio St. 2d 382, 388, 415 N.E.2d 303 (1980)
- State v. Nolton, 19 Ohio St. 2d 133, 135, 249 N.E.2d 797 (1969)
- State v. Campbell, 69 Ohio St. 3d 38, 47-48, 630 N.E.2d 339 (1994)
- United States v. Gaudin, 515 U.S. 506, 510-511, 115 S. Ct. 2310, 132 L. Ed. 2d 444 (1995)
- State v. Loudermill, 2 Ohio St. 2d 79, 82-83, 206 N.E.2d 198 (1965)
- State v. DeMarco, 31 Ohio St. 3d 191, 195, 509 N.E.2d 1256 (1987)
- State v. Allen, 73 Ohio St. 3d 626, 630, 653 N.E.2d 675 (1995)
- State v. Price, 60 Ohio St. 2d 136, 398 N.E.2d 772 (1979)
- Cupp v. Naughten, 414 U.S. 141, 147, 94 S. Ct. 396, 38 L. Ed. 2d 368 (1973)
- State v. Kidder, 32 Ohio St. 3d 279, 288, 513 N.E.2d 311 (1987)