

SUPREME COURT OF WYOMING

Whitney v. State

2004 WY 118 (Wyo. 2004) · No. No. 03-34 · Decided October 21, 2004

SUMMARY

The Supreme Court of Wyoming affirmed Harold Robert Whitney Jr.'s convictions for aggravated homicide by vehicle and several misdemeanors. The court addressed claims concerning speedy trial rights, suppression or preservation of exculpatory evidence, admission of a crime-scene photograph, and prosecutorial misconduct.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Voigt, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	October 21, 2004
DOCKET	No. 03-34
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from convictions in the district court for aggravated homicide by vehicle and several misdemeanors. The appellant challenged the convictions on speedy-trial, suppression or preservation of exculpatory evidence, evidentiary, and prosecutorial-misconduct grounds.
STANDARD OF REVIEW	Speedy-trial constitutional claims are reviewed de novo. Brady claims are reviewed de novo. Unpreserved evidentiary and prosecutorial-misconduct claims are reviewed for plain error; preserved evidentiary rulings are reviewed for abuse of discretion. Prosecutorial-misconduct claims are assessed by determining whether the alleged error affected a substantial right and whether a reasonable possibility exists that the verdict would have been more favorable absent the error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Harold Robert Whitney, Jr. v. State of Wyoming

TOPICS

- speedy trial
- criminal procedure
- suppression of evidence
- evidence
- prosecutorial misconduct

PRACTICE AREAS

criminal procedure

criminal appeals

evidence

constitutional law

QUESTIONS PRESENTED

1. Whether Whitney was denied a speedy trial under W.R.Cr.P. 48(b), the Wyoming Constitution, or the Sixth Amendment.
2. Whether the prosecution suppressed or failed to preserve exculpatory evidence in violation of Brady v. Maryland and due process principles governing lost or destroyed evidence.
3. Whether the district court plainly erred by admitting a photograph depicting the deceased victim at the crime scene.
4. Whether the prosecutor committed prejudicial misconduct during opening statement and closing argument by referring to the victim's family, closure, and justice.

HOLDINGS

1. The district court properly continued the trial beyond the 180-day period because the continuances were requested by defense counsel for the defense's benefit, supported by the circumstances and, where required, by the defendant's consent. Whitney was not entitled to dismissal under W.R.Cr.P. 48(b).
2. Whitney was not denied his constitutional right to a speedy trial.
3. The prosecution did not violate Brady or due process by failing to disclose the Evanston police investigation or by releasing the minivan from its possession.
4. The district court did not commit plain error by admitting the photograph of the deceased victim.
5. The prosecutor's references to the victim's family, closure, and justice were improper, but they did not constitute prejudicial plain error requiring reversal.

KEY QUOTATIONS

"Accordingly, the appellant was not denied his constitutional right to a speedy trial in the instant case." (99 P.3d at 476)

"The appellant has also failed to establish that the minivan's exculpatory value was sufficiently apparent at the time the prosecution released the minivan from its possession." (99 P.3d at 481)

"Accordingly, weighing all of the factors against the record as a whole, we do not think a reasonable possibility exists that in the absence of the prosecutor's remarks, the verdict might have been more favorable to the appellant or that the remarks put the fairness of the trial into serious question." (99 P.3d at 489)

FACTUAL BACKGROUND

In the early morning, Officer Vranish stopped Whitney after observing erratic driving and suspecting impairment. Whitney abruptly fled in a minivan, drove at high speed, left the roadway, struck and killed Donald Walker, and then fled on foot. Whitney's blood alcohol content was .27 percent. At trial, the defense argued that police conduct, including a possible vehicle contact or pit maneuver, contributed to the crash.

PROCEDURAL HISTORY

Whitney was arrested on September 29, 2001, charged in circuit court, bound over after a preliminary hearing, and arraigned in district court on October 31, 2001. After several defense-requested or defense-consented continuances, a Uinta County jury convicted him on October 11, 2002. The district court sentenced him to eight to twelve years for aggravated homicide by vehicle and imposed additional misdemeanor sentences. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Vlahos v. State, 2003 WY 103, 75 P.3d 628
- Walters v. State, 2004 WY 37, 87 P.3d 793
- Barker v. Wingo, 407 U.S. 514 (1972)
- Taylor v. State, 2001 WY 13, 17 P.3d 715
- Warner v. State, 2001 WY 67, 28 P.3d 21
- Wehr v. State, 841 P.2d 104 (Wyo. 1992)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Strickler v. Greene, 527 U.S. 263 (1999)
- California v. Trombetta, 467 U.S. 479 (1984)
- Arizona v. Youngblood, 488 U.S. 51 (1988)
- Helm v. State, 1 P.3d 635 (Wyo. 2000)
- Davis v. State, 2002 WY 88, 47 P.3d 981
- Story v. State, 2001 WY 3, 15 P.3d 1066
- Reeder v. State, 515 P.2d 969 (Wyo. 1973)
- Wilks v. State, 2002 WY 100, 49 P.3d 975
- Mazurek v. State, 10 P.3d 531 (Wyo. 2000)
- Armstrong v. State, 826 P.2d 1106 (Wyo. 1992)
- Dysthe v. State, 2003 WY 20, 63 P.3d 875
- Trujillo v. State, 2002 WY 51, 44 P.3d 22

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