

SUPREME COURT OF THE STATE OF DELAWARE

Cephas v. State

Cephas · No. No. 12, 2017 · Decided July 18, 2017

SUMMARY

The Delaware Supreme Court affirmed Vernon Cephas’s convictions and seventy-nine-year sentence for sexual offenses against a child. Applying Supreme Court Rule 26(c), the Court found no nonfrivolous appellate issues concerning the suppression motions, arrest warrant, jury instructions, prosecutorial vouching, sufficiency of the evidence, or alleged judicial bias.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Leo E. Strine, Jr., Chief Justice; James T. Valihura, Justice; Gary F. Seitz, Jr., Justice
JURISDICTION	Delaware
DECIDED	July 18, 2017
DOCKET	No. 12, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions and sentence in the Delaware Superior Court. Appellate counsel filed a no-merit brief and a motion to withdraw under Delaware Supreme Court Rule 26(c); the State moved to affirm.
STANDARD OF REVIEW	The court independently reviewed the record under Supreme Court Rule 26(c) to determine whether the appeal was frivolous and whether counsel made a conscientious examination of the record and law. Unpreserved claims were reviewed for plain error. The voluntariness determination regarding the Miranda waiver was reviewed for sufficient evidentiary support, and denial of the motion to reopen was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion; precedential value not otherwise specified in the text.
PARTIES	Vernon Cephas v. State of Delaware

TOPICS

criminal procedure

appellate procedure

suppression of evidence

miranda rights

jury instructions

PRACTICE AREAS

criminal law

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evidence

QUESTIONS PRESENTED

1. Whether Cephas's waiver of Miranda rights was involuntary and required suppression of his statement.
2. Whether the Superior Court properly denied a motion to reopen suppression proceedings to raise additional suppression grounds that could have been raised earlier.
3. Whether an alleged defect in the arrest-warrant application required suppression of Cephas's statement.
4. Whether the evidence was sufficient to support the convictions despite the absence of physical evidence.
5. Whether the Superior Court committed reversible error in instructing the jury on evasion of arrest and the use of a prior statement under 11 Del. C. § 3507.
6. Whether the prosecutor engaged in improper vouching.
7. Whether the trial judge was biased for not appointing Cephas new counsel.
8. Whether ineffective-assistance claims could be considered on direct appeal.

HOLDINGS

1. The Superior Court properly denied suppression because the record supported its finding that Cephas knowingly and voluntarily waived his Miranda rights and that his statement was not forced or coerced.
2. The Superior Court acted within its discretion in denying the motion to reopen because Cephas sought to raise untimely suppression grounds that could have been presented in the original motion, and no exceptional circumstances were shown.
3. The alleged deficiency in the arrest-warrant application did not constitute plain error because the Child Advocacy Center interview supplied sufficient information for an independent probable-cause determination.
4. The evasion-of-arrest instruction was warranted because the evidence supported a reasonable inference that Cephas concealed himself in a closet because of consciousness of guilt.
5. The Superior Court properly admitted the victim's videotaped Child Advocacy Center interview under § 3507 and properly instructed the jury to determine its credibility and weight; no plain error occurred.
6. The evidence was sufficient to support the convictions even without physical evidence because the victim's testimony, out-of-court statement, and Cephas's partial confession established the elements of the offenses.
7. The court would not consider Cephas's ineffective-assistance claim on direct appeal.

KEY QUOTATIONS

“the appeal is indeed so frivolous that it may be decided without an adversary presentation.” (at 5)

“the voluntary out-of-court prior statement of a witness who is present and subject to cross-examination may be used as affirmative evidence with substantive independent testimonial value.” (at 8)

“An alleged victim’s identification of the defendant as the perpetrator, even in the absence of physical evidence linking the defendant to the crime, constitutes sufficient evidence to support the defendant’s conviction of a sexual crime as long as the alleged victim’s testimony establishes every element of the offense charged.” (at 9)

FACTUAL BACKGROUND

Cephas was arrested in March 2015 after a child reported alleged sexual abuse and a Delaware State Police detective obtained an arrest warrant. Police found Cephas concealed in a partially closed bedroom closet after entering his home. After receiving Miranda warnings, Cephas agreed to answer questions and made partial admissions. At trial, the victim's testimony, her videotaped Child Advocacy Center interview, and Cephas's partial confession supported the convictions.

PROCEDURAL HISTORY

Cephas was indicted on rape, sexual solicitation, and continuous sexual abuse charges, tried by a jury, and convicted of four counts of first-degree unlawful sexual contact as lesser-included offenses of the first-degree rape charges and of the remaining charged offenses. The Superior Court denied his motion to suppress his statement, denied his motion to reopen the suppression proceedings, and sentenced him to seventy-nine unsuspended years of Level V imprisonment. On direct appeal, the Delaware Supreme Court independently reviewed the record, granted the State's motion to affirm, affirmed the judgment, and deemed the motion to withdraw moot.

DISPOSITION

affirmed

CASES CITED

- Penson v. Ohio, 488 U.S. 75, 80, 82-83 (1988)
- McCoy v. Court of Appeals of Wisconsin, 486 U.S. 429, 442 (1988)
- Anders v. California, 386 U.S. 738, 744 (1967)
- State v. Cephas, 2016 WL 4409550 (Del. Super. Aug. 16, 2016)
- Desmond v. State, 654 A.2d 821, 829 (Del. 1994)
- Wainwright v. State, 504 A.2d 1096, 1100 (Del. 1986)
- Miranda v. Arizona, 384 U.S. 436 (1966)
- Bennett v. State, 2010 WL 987025, *3 (Del. Mar. 18, 2010)
- Hanna v. State, 591 A.2d 158, 165 (Del. 1991)
- Schneckloth v. Bustamonte, 412 U.S. 218, 227 (1973)
- Small v. State, 2015 WL 71631, *3 (Del. Jan. 5, 2015)

- Miller v. State, 2010 WL 3328004, *2 (Del. Aug. 24, 2010)
- Thomas v. State, 467 A.2d 954, 956 (Del. 1983)
- Robertson v. State, 41 A.3d 406, 409 (Del. 2012)
- Quirico v. State, 2004 WL 220328, *4 (Del. Jan. 27, 2004)
- Saunders v. State, 602 A.2d 623, 624 (Del. 1984)
- Richardson v. State, 43 A.3d 906, 910 (Del. 2012)
- Bessicks v. State, 2017 WL 1383760, *2 (Del. Apr. 13, 2017)
- Swan v. State, 820 A.2d 342, 358 (Del. 2003)
- Philhower v. State, 2016 WL 6407472, **2 (Del. Oct. 28, 2016)

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