

SUPREME COURT OF MINNESOTA

State of Minnesota v. Brian Alexander Clifton

701 N.W.2d 793 (Minn. 2005) · No. No. A03-1964 · Decided August 4, 2005

SUMMARY

The Supreme Court of Minnesota affirmed Brian Alexander Clifton’s conviction for premeditated first-degree murder and life sentence. The court upheld the admission of evidence concerning an assault on a prosecution witness, the submission of a no-adverse-inference instruction, and the rejection of claims concerning prosecutorial misconduct, retrial after a hung jury, jury unanimity, witness examination, and sufficiency of the evidence. A dissent would have reversed because of the prosecutor’s demeaning closing argument regarding the witnesses’ community and lifestyle.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Russell A. Anderson, Justice
JURISDICTION	Minnesota
DECIDED	August 4, 2005
DOCKET	No. A03-1964
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a conviction for premeditated first-degree murder after a retrial following a mistrial caused by a jury unable to reach a verdict.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion. Prosecutorial-misconduct claims are evaluated by examining the challenged conduct and determining whether, in light of the whole trial, it impaired the defendant's right to a fair trial; the court may also order a new trial prophylactically or in the interests of justice. Sufficiency of the evidence is reviewed by painstakingly analyzing the record and viewing the evidence in the light most favorable to the conviction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Minnesota; decided en banc.
PARTIES	Brian Alexander Clifton v. State of Minnesota

TOPICS

prosecutorial misconduct

jury instructions

evidence

double jeopardy

criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether evidence that a prosecution witness was assaulted after testifying at Clifton's first trial was properly admitted to explain inconsistencies in the witness's testimony.
2. Whether the trial court erred by giving the no-adverse-inference instruction without a personal, on-the-record consent from Clifton.
3. Whether the prosecutor committed misconduct in closing argument by injecting racial and socioeconomic considerations, appealing to passion and prejudice, and demeaning the witnesses.
4. Whether the prosecutor improperly elicited testimony characterizing a witness as a liar.
5. Whether retrial after the first jury was unable to reach a verdict violated the state or federal Double Jeopardy Clauses.
6. Whether the standard jury-unanimity instruction violated due process.
7. Whether the evidence was sufficient to support Clifton's first-degree murder conviction.

HOLDINGS

1. The district court did not abuse its discretion by admitting evidence that Walker was assaulted after his testimony at the first trial because the evidence was relevant to explain inconsistencies in his testimony and was limited by the court to credibility assessment with cautionary instructions.
2. Although the trial court should not give CRIMJIG 3.17 without the defendant's personal and clear consent, the record independently established that Clifton and his attorney agreed to the instruction; therefore, Clifton was not entitled to a new trial.
3. The prosecutor's closing argument was improper because it injected issues broader than guilt or innocence, came close to appealing to passion and prejudice, and demeaned the witnesses by contrasting their community and lifestyles with those of the jurors; however, the misconduct did not require a new trial under the circumstances of this case.
4. Clifton was not entitled to relief because the prosecutor did not ask improper 'were they lying' questions, and the court declined to adopt a blanket prohibition beyond its existing rule that such questions generally have no probative value and are improper.
5. Retrial following discharge of a jury that could not reach a verdict does not violate the state or federal constitutional prohibitions against double jeopardy.
6. The evidence was sufficient to support Clifton's conviction for premeditated first-degree murder.

KEY QUOTATIONS

“Our independent review of the record satisfies us that Clifton and his attorney agreed to the instruction. Clifton is not entitled to a new trial on this ground.” (701 N.W.2d at 798)

“These remarks were improper in at least three aspects.” (701 N.W.2d at 800)

“Retrial following the discharge of a hung jury, however, does not violate double jeopardy.” (701 N.W.2d at 801)

“When viewed in the light most favorable to the verdict, the evidence clearly supported the verdict.” (701 N.W.2d at 801)

FACTUAL BACKGROUND

After Steven Earl Nix was acquitted of attempting to murder Clifton's brother, Clifton made statements suggesting that Nix could be dealt with another way and was overheard threatening to kill or get Nix. On September 23, 2002, Clifton approached a vehicle in which Nix was sitting and shot Nix in the head at close range; Nix died shortly thereafter. Three eyewitnesses identified Clifton as the shooter, and the prosecution also presented evidence of prior threats and threatening gestures.

PROCEDURAL HISTORY

Clifton was indicted for first-degree premeditated murder and second-degree intentional murder. His first trial in March 2003 ended in a mistrial when the jury could not reach a verdict. At a September 2003 retrial, the jury convicted him of first-degree premeditated murder, and the district court sentenced him to life imprisonment with eligibility for parole after 30 years. The Minnesota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Bernhardt v. State, 684 N.W.2d 465, 474 (Minn. 2004)
- United States v. Abel, 469 U.S. 45, 52 (1984)
- United States v. Thomas, 86 F.3d 647, 654 (7th Cir. 1996)
- State v. Harris, 521 N.W.2d 348, 351-53 (Minn. 1994)
- Dudley v. Duckworth, 854 F.2d 967, 971 (7th Cir. 1988)
- State v. Darris, 648 N.W.2d 232, 240 (Minn. 2002)
- State v. Thompson, 430 N.W.2d 151, 153 (Minn. 1988)
- State v. DeRosier, 695 N.W.2d 97, 106 (Minn. 2005)
- State v. Ford, 539 N.W.2d 214, 228 (Minn. 1995)
- State v. Powers, 654 N.W.2d 667, 678 (Minn. 2002)
- State v. Johnson, 616 N.W.2d 720, 727-28 (Minn. 2000)
- State v. Ray, 659 N.W.2d 736, 747 (Minn. 2003)

- State v. Clark, 296 N.W.2d 372, 377 (Minn. 1980)
- State v. Johnson, 324 N.W.2d 199, 202 (Minn. 1982)
- State v. Varner, 643 N.W.2d 298, 304 (Minn. 2002)
- State v. Lefthand, 488 N.W.2d 799, 802 (Minn. 1992)
- State v. Salitros, 499 N.W.2d 815, 820 (Minn. 1993)
- United States v. Fernandez, 145 F.3d 59, 64 (1st Cir. 1998)
- United States v. Richter, 826 F.2d 206, 208 (2d Cir. 1987)
- State v. Pilot, 595 N.W.2d 511, 518 (Minn. 1999)
- United States v. Perez, 22 U.S. (9 Wheat.) 579, 580 (1824)
- State v. Fields, 679 N.W.2d 341, 348 (Minn. 2004)
- State v. Webb, 440 N.W.2d 426, 430 (Minn. 1989)