

SUPREME COURT OF FLORIDA

Odom v. State

403 So. 2d 936 (Fla. 1981) · No. No. 50575 · Decided July 23, 1981

SUMMARY

The Supreme Court of Florida affirmed Eddie Odom's first-degree murder conviction but vacated his death sentence. The court held that a warrantless recording of Odom's conversation violated article I, section 12 of the Florida Constitution, but that admission of the recording was harmless because other evidence independently supported the conviction. The court also concluded that no statutory aggravating circumstances were established and ordered a sentence of life imprisonment without eligibility for parole for twenty-five years.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Sundberg, C.J.; Boyd, J.; Overton, J.; England, J.; Adkins, J.
JURISDICTION	Florida
DECIDED	July 23, 1981
DOCKET	No. 50575
DISPOSITION	vacated
PROCEDURAL POSTURE	Direct appeal from a first-degree murder conviction and death sentence entered after a jury trial.
STANDARD OF REVIEW	The court reviewed the evidentiary rulings, mistrial ruling, witness-sequestration ruling, and ruling on post-trial juror interviews for abuse of discretion, reviewed the sufficiency of the evidence for competent, substantial evidence, and independently reviewed the statutory aggravating circumstances supporting the death sentence.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; precedential.
PARTIES	Eddie Odom v. State of Florida

TOPICS

- sentencing
- suppression of evidence
- fourth amendment
- fifth amendment
- criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

capital sentencing

evidence

constitutional law

QUESTIONS PRESENTED

1. Whether the recording of Odom's conversation with Gerald Jones violated the Fourth or Fifth Amendment.
2. Whether the recording violated chapter 934, Florida Statutes (1975), Florida's wiretap statute.
3. Whether the recording was inadmissible because portions were inaudible or unintelligible.
4. Whether the trial court erred by allowing the State's ballistics expert to testify after the expert had discussed the case and Odom's character with a local officer.
5. Whether the trial court abused its discretion by denying a mistrial after a juror received a threatening telephone call.
6. Whether the trial court abused its discretion by denying post-trial interviews of all jurors based on alleged jury misconduct.
7. Whether the death sentence was supported by valid statutory aggravating circumstances and could stand despite the jury's recommendation of life imprisonment.

HOLDINGS

1. Although the recording did not violate the Fourth Amendment, its warrantless recording of a private conversation violated article I, section 12 of the Florida Constitution and the recording was inadmissible under Florida's constitutional exclusionary rule.
2. Admission of the unconstitutional recording was harmless error and did not require reversal of the conviction because other evidence independently and sufficiently supported the jury's verdict.
3. Partial inaudibility or unintelligibility does not require exclusion of a recording when the audible portions are relevant, authenticated, and otherwise admissible; the trial judge determines admissibility under that standard.
4. The trial court acted within its discretion in permitting the ballistics expert to testify subject to confinement to matters in his pretrial written report, and the challenged conversation did not establish reversible error.
5. The trial court did not abuse its discretion by denying a mistrial after a juror received a threatening telephone call because the court investigated the incident, sequestered the jury, and found that the jurors could remain fair and impartial.
6. The trial court did not abuse its discretion by denying interviews of the remaining jurors after investigating the allegation and finding no basis for further inquiry.
7. The presence of two persons near the murder victim was legally insufficient to establish the statutory aggravating circumstance that the defendant created a great risk of death to many persons.
8. An instantaneous death caused by gunfire is not ordinarily an especially heinous, atrocious, or cruel killing, so the circumstance was not established on the facts presented.

9. Mere arrests and accusations that did not result in criminal convictions may not be considered in aggravation unless the evidence tends to establish one of the statutory aggravating circumstances.
10. A jury recommendation of life imprisonment is entitled to great weight, and a death sentence may override that recommendation only when the facts supporting death are so clear that the jury acted unreasonably. Because no statutory aggravating circumstance was established, the death sentence could not stand.

KEY QUOTATIONS

“In order for the right against self-incrimination to be involved when statements are made, there must at least be some kind of compulsion.” (at 939)

“The evidence, therefore, should have been excluded. The admission of the tape into evidence, however, does not require reversal of the judgment. There was other evidence of appellant's guilt sufficient to support the jury's verdict. The improperly obtained evidence was merely cumulative. The error of allowing such evidence to go to the jury was harmless.” (at 940)

“We therefore vacate the sentence of death and order that appellant be sentenced to life imprisonment without eligibility for parole for twenty-five years.” (at 943)

FACTUAL BACKGROUND

After Joe Richards threatened Odom and Odom's wife, Odom, Robert Lewis, and Charles Jimmy Carter went to Richards's home. Odom and Lewis approached a bedroom window and shot Richards, killing him; a woman in the room also sustained a minor shotgun wound. Carter received immunity and testified for the State, while other witnesses described Odom's admissions and police recovered a rifle and ballistics evidence connected to the killing. The State also introduced a recording made when Gerald Jones, cooperating with police and wearing a hidden transmitter, elicited incriminating statements from Odom.

PROCEDURAL HISTORY

Odom was convicted of first-degree murder in the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, and sentenced to death. The Supreme Court of Florida rejected the challenges to the conviction, affirmed the judgment of conviction, vacated the death sentence, and ordered imposition of a life sentence without eligibility for parole for twenty-five years.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The conviction for first-degree murder is affirmed. The death sentence is vacated, and the sentencing court is ordered to sentence Odom to life imprisonment without eligibility for parole for twenty-five years.

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *Hoffa v. United States*, 385 U.S. 293 (1966)
- *United States v. Caceres*, 440 U.S. 741 (1979)
- *United States v. White*, 401 U.S. 745 (1971)
- *Lopez v. United States*, 373 U.S. 427 (1963)
- *State v. Sarmiento*, 397 So. 2d 643 (Fla. 1981)
- *Sing v. Wainwright*, 148 So. 2d 19 (Fla. 1962)
- *Gildrie v. State*, 94 Fla. 134, 113 So. 704 (1927)
- *Taylor v. State*, 355 So. 2d 180 (Fla. 3d DCA 1978)
- *Todisco v. United States*, 298 F.2d 208 (5th Cir. 1961), cert. denied, 368 U.S. 989 (1962)
- *Monroe v. United States*, 234 F.2d 49 (D.C. Cir.), cert. denied, 352 U.S. 873 (1956)
- *Brady v. State*, 178 So. 2d 121 (Fla. 2d DCA 1965)
- *Gomien v. State*, 172 So. 2d 511 (Fla. 3d DCA 1965)
- *Spencer v. State*, 133 So. 2d 729 (Fla. 1961), cert. denied, 369 U.S. 880 (1962)
- *Rollins v. State*, 256 So. 2d 541 (Fla. 4th DCA 1972)
- *Lamb v. State*, 90 Fla. 844, 107 So. 530 (1925)
- *Yates v. State*, 26 Fla. 484, 7 So. 880 (1890)
- *Williams v. State*, 386 So. 2d 538 (Fla. 1980)
- *Lewis v. State*, 377 So. 2d 640 (Fla. 1979)
- *Kampf v. State*, 371 So. 2d 1007 (Fla. 1979)
- *Cooper v. State*, 336 So. 2d 1133 (Fla. 1976), cert. denied, 431 U.S. 925 (1977)
- *Perry v. State*, 395 So. 2d 170 (Fla. 1980)
- *Provence v. State*, 337 So. 2d 783 (Fla. 1976), cert. denied, 431 U.S. 969 (1977)
- *Neary v. State*, 384 So. 2d 881 (Fla. 1980)
- *McCaskill v. State*, 344 So. 2d 1276 (Fla. 1977)
- *Tedder v. State*, 322 So. 2d 908 (Fla. 1975)