

SUPREME COURT OF INDIANA

Ferrell v. State

746 N.E.2d 48 (Ind. 2001) · No. 49S00-0003-CR-142 · Decided April 11, 2001

SUMMARY

The Indiana Supreme Court held that sufficient evidence supported Craig Ferrell’s convictions for murder and attempted robbery because the jury could credit an accomplice’s testimony despite inconsistencies with other evidence. The court declined to apply the incredible dubiousity rule. It reversed the criminal gang activity conviction because the State failed to prove active gang membership and a specific intent to further the gang’s criminal goals, while affirming the remaining convictions.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Indiana                                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Rucker, Justice; Shepard, Chief Justice; Dickson, Justice; Sullivan, Justice; Boehm, Justice                                                                                                                                                                                                                                                        |
| JURISDICTION          | Indiana                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | April 11, 2001                                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | 49S00-0003-CR-142                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Ferrell appealed his jury convictions for murder, attempted robbery as a Class A felony, aggravated battery as a Class B felony, and criminal gang activity as a Class D felony, challenging the sufficiency of the evidence supporting the convictions at trial.                                                                                   |
| STANDARD OF REVIEW    | The court reviewed the sufficiency of the evidence by considering the evidence and reasonable inferences supporting the verdict, without reweighing the evidence or reassessing witness credibility. A conviction is affirmed if probative evidence would permit a reasonable jury to find every material element proved beyond a reasonable doubt. |
| PRECEDENTIAL VALUE    | Published Indiana Supreme Court opinion; precedential authority.                                                                                                                                                                                                                                                                                    |
| PARTIES               | Craig Ferrell v. State of Indiana                                                                                                                                                                                                                                                                                                                   |

TOPICS

criminal procedure

standard of review

appellate procedure

burden of proof

evidence

## PRACTICE AREAS

criminal procedure

criminal law

appellate review

evidence

## QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Ferrell's murder conviction despite alleged inconsistencies and credibility problems in Thompson's testimony.
2. Whether the evidence was sufficient to support Ferrell's attempted-robbery conviction.
3. Whether the evidence was sufficient to support Ferrell's criminal-gang-activity conviction when the State showed gang affiliation but did not show active membership or specific intent to further the gang's criminal goals.

## HOLDINGS

1. The evidence was sufficient to support Ferrell's murder and attempted-robbery convictions because Thompson's testimony, although inconsistent in some respects with other evidence, was not inherently contradictory, equivocal, or coerced, and the jury was entitled to credit it.
2. The evidence was insufficient to support the criminal-gang-activity conviction because the State showed, at most, that Ferrell was affiliated with a gang that committed criminal offenses; it did not prove active membership or specific intent to further the gang's criminal goals.

## KEY QUOTATIONS

*"Under the 'incredible dubiousity rule,' a court will impinge upon the jury's responsibility to judge witness credibility only when confronted with inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony of incredible dubiousity."* (746 N.E.2d at 50)

*"The State's case on this offense consisted only of evidence that Ferrell, at some point, was a member of a gang that commits criminal offenses. That is not enough."* (746 N.E.2d at 51)

## FACTUAL BACKGROUND

On January 14, 1999, a group of men attacked and beat Edward Crafter, whose body was found in a field the next morning. Trial witness Tommy Thompson testified that Ferrell and another accomplice beat Crafter, searched his pockets, dragged him, and stabbed him; the autopsy showed blunt-force injuries and multiple stab wounds causing death. The State also introduced evidence that Ferrell had tattoos identified as symbols of the Vice Lords gang, but it presented no evidence that he was an active gang member or that he intended to further the gang's criminal goals when the offenses occurred.

## PROCEDURAL HISTORY

After a jury trial, the trial court convicted Ferrell of murder, attempted robbery, aggravated battery, and criminal gang activity and imposed an aggregate sentence of 100 years. Ferrell appealed to the Supreme Court of Indiana,

which reversed the criminal-gang-activity conviction for insufficient evidence and affirmed the remaining convictions.

#### DISPOSITION

reversed

#### CASES CITED

- Brown v. State, 720 N.E.2d 1157, 1158 (Ind. 1999)
- Tillman v. State, 642 N.E.2d 221, 223 (Ind. 1994)
- Gaddis v. State, 253 Ind. 73, 80-81, 251 N.E.2d 658, 661-62 (1969)
- Berry v. State, 703 N.E.2d 154, 160 (Ind. 1998)
- Marshall v. State, 621 N.E.2d 308, 320 (Ind. 1993)
- Grace v. State, 731 N.E.2d 442, 445 (Ind. 2000), reh'g denied
- Robinson v. State, 730 N.E.2d 185, 195 (Ind. Ct. App. 2000), trans. denied
- Trice v. State, 693 N.E.2d 649, 651 (Ind. Ct. App. 1998)
- Kilpatrick v. State, 746 N.E.2d 52 (Ind. 2001)