

DISTRICT OF COLUMBIA COURT OF APPEALS

Fuller v. United States

873 A.2d 1108 (D.C. 2005) · No. No. 98-CF-1655 · Decided May 12, 2005

SUMMARY

The District of Columbia Court of Appeals affirmed Luther Fuller's convictions for second-degree murder while armed and two weapons offenses. The court held that the trial court did not improperly limit cross-examination of a key government witness or exclude related impeachment testimony. Although the court concluded that submitting the transcript of Fuller's prior-trial testimony to the jury without first assessing particular need or giving a cautionary instruction was erroneous, it found the error harmless.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ruiz, Associate Judge; Farrell, Associate Judge; Steadman, Senior Judge
JURISDICTION	District of Columbia
DECIDED	May 12, 2005
DOCKET	No. 98-CF-1655
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from convictions following a retrial for second-degree murder while armed and two weapons offenses after the first jury acquitted Fuller of first-degree murder and deadlocked on the lesser-included offenses and weapons charges.
STANDARD OF REVIEW	Abuse of discretion for limits on cross-examination and exclusion of proffered impeachment testimony; harmless-error review for the submission of the prior-trial testimony transcript to the jury.
PRECEDENTIAL VALUE	published
PARTIES	Luther Fuller v. United States

TOPICS

- criminal procedure
- impeachment
- evidence
- appellate procedure
- fifth amendment

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by limiting defense counsel's cross-examination of government witness LaShauntya Moore concerning alleged fabrication and inconsistencies in her testimony.
2. Whether the trial court abused its discretion by excluding Keith Tate's proffered testimony as impeachment evidence concerning the source of Moore's testimony.
3. Whether the trial court erred by submitting to the jury during deliberations the transcript of Fuller's testimony from the first trial without first determining whether the jury had a particular need for the transcript and without giving a special cautionary instruction.
4. If submission of the transcript was error, whether the error was harmless.

HOLDINGS

1. The trial court did not abuse its discretion by limiting defense counsel's cross-examination of Moore because counsel did not provide facts establishing a reasonable factual foundation or well-reasoned suspicion that Moore fabricated her testimony to cover up neighborhood gossip.
2. The trial court did not abuse its discretion in excluding Tate's testimony because the proffer did not establish facts showing that Tate's statement supplied the source of Moore's testimony or that the testimony would demonstrate fabrication.
3. The trial court did not abuse its discretion by ending further questioning about whether there had been one or two fights because Moore had already been impeached on that point and additional questioning would have been repetitive and only marginally relevant.
4. Although no blanket rule prohibits submitting to the jury a transcript of a defendant's prior-trial testimony that has been admitted into evidence, the trial court should not submit such a transcript reflexively. The court must first consider whether the jurors have a particular need for it and, if it is submitted, give a special instruction cautioning against undue emphasis; when requested, the court should also caution against impermissible inferences from the defendant's decision to testify at the earlier trial and not testify at the current trial.
5. Any error in submitting the transcript of Fuller's prior-trial testimony to the jury was harmless and did not warrant reversal.

KEY QUOTATIONS

"Therefore, although no blanket rule prohibits submitting to the jury for its deliberation the transcript of a defendant's testimony that has been admitted as evidence, the attendant risks require that it not be done reflexively and as a matter of course." (1118)

"A trial judge should first consider whether the jurors have a particular need for the transcript, and if so, give a special instruction cautioning against unduly emphasizing the transcript over other evidence." (1118)

“Considering the matter in the context of the entire trial, we are confident that the jury’s access to a transcript of the non-testifying appellant’s testimony from a previous trial did not sway the verdict, and that any error in providing the transcript was therefore harmless.” (1119)

FACTUAL BACKGROUND

Danny Murray was shot and killed in Southeast Washington, D.C., after a confrontation with Fuller. Two eyewitnesses identified Fuller as the shooter, and other witnesses supplied evidence of motive and a purported confession in self-defense. Fuller was apprehended shortly after the shooting while fleeing with Carl Jones, and the murder weapon was not recovered. At the second trial, the government introduced and read into evidence Fuller’s testimony from the first trial, in which he admitted being present but claimed Jones was the shooter.

PROCEDURAL HISTORY

Fuller was indicted for first-degree murder while armed and related weapons charges. The first trial resulted in an acquittal on first-degree murder and a jury deadlock on the remaining charges, leading to a mistrial. On retrial, Fuller was convicted of second-degree murder while armed and two weapons offenses. He appealed, challenging limits on cross-examination of a government witness and the submission to the jury of a transcript of his testimony from the first trial. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Clayborne v. United States, 751 A.2d 956 (D.C. 2000)
- Johnson v. United States, 398 A.2d 354 (D.C. 1979)
- Guzman v. United States, 769 A.2d 785 (D.C. 2001)
- Brown v. United States, 683 A.2d 118 (D.C. 1996)
- Joyner v. United States, 818 A.2d 166 (D.C. 2003)
- Delaware v. Van Arsdall, 475 U.S. 673 (1986)
- People v. Montoya, 773 P.2d 623 (Colo. Ct. App. 1989)
- United States v. Wilson, 160 F.3d 732 (D.C. Cir. 1998)
- United States v. Rodgers, 109 F.3d 1138 (6th Cir. 1997)
- United States v. Hernandez, 27 F.3d 1403 (9th Cir. 1994)
- Buckner v. United States, 154 F.2d 317 (D.C. Cir. 1946)
- Robinson v. United States, 210 F.2d 29 (D.C. Cir. 1954)
- State v. Solomon, 87 P.2d 807 (Utah 1939)
- Tibbs v. Tibbs, 359 S.E.2d 674 (Ga. 1987)
- Thomason v. Genuine Parts Co., 275 S.E.2d 159 (Ga. Ct. App. 1981)
- State v. Freetime, 303 So. 2d 487 (La. 1974)

- State v. Brooks, 675 S.W.2d 53 (Mo. Ct. App. 1984)
- Commonwealth v. Ravenell, 292 A.2d 365 (Pa. 1972)
- State v. Monroe, 27 P.3d 1249 (Wash. Ct. App. 2001)
- State v. Ahmadjian, 438 A.2d 1070 (R.I. 1981)
- People v. Fujita, 117 Cal. Rptr. 757 (Cal. Ct. App. 1974)
- Springer v. United States, 388 A.2d 846 (D.C. 1978)
- United States v. Carson, 464 F.2d 424 (2d Cir. 1972)
- United States v. McMillan, 508 F.2d 101 (8th Cir. 1974)
- Kotteakos v. United States, 328 U.S. 750 (1946)
- Ford v. United States, 549 A.2d 1124 (D.C. 1988)
- Shepard v. United States, 533 A.2d 1278 (D.C. 1987)