

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Little

453 Mass. 766 (2009) · Decided May 14, 2009

SUMMARY

The Massachusetts Supreme Judicial Court considered whether a narcotics investigator properly testified as an expert regarding possession of marijuana with intent to distribute and whether the trial judge properly ruled that the defendant’s prior drug-distribution convictions could be used for impeachment. The court upheld the admission of the expert testimony and found the evidence sufficient to support the charge. It nevertheless held that the ruling on the prior convictions created a substantial risk of a miscarriage of justice, reversed the conviction, and remanded for a new trial.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cordy, J.; Spina, J.
JURISDICTION	Massachusetts
DECIDED	May 14, 2009
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant was convicted after a jury trial of possession of a Class D substance, marijuana, with intent to distribute. The Supreme Judicial Court granted direct appellate review of his appeal.
STANDARD OF REVIEW	Admission of expert testimony is reviewed for abuse of discretion or error of law. Unobjected-to expert testimony is reviewed for a substantial risk of a miscarriage of justice. The denial of a motion for a required finding of not guilty is reviewed in the light most favorable to the Commonwealth to determine whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. Evidentiary rulings concerning prior convictions are reviewed for abuse of discretion, but an issue not preserved by an objection at trial is reviewed for a substantial risk of a miscarriage of justice.
PRECEDENTIAL VALUE	Published opinion of the Massachusetts Supreme Judicial Court; precedential.
PARTIES	Commonwealth v. Christopher Little

TOPICS

expert testimony evidence criminal procedure appellate procedure preservation of error

PRACTICE AREAS

criminal law criminal procedure evidence appellate practice

QUESTIONS PRESENTED

1. Whether the trial judge properly admitted a narcotics investigator's expert testimony concerning whether the circumstances were consistent with possession for distribution rather than personal use.
2. Whether the evidence was sufficient to support a finding beyond a reasonable doubt that Little possessed marijuana with intent to distribute.
3. Whether the trial judge abused his discretion and created a substantial risk of a miscarriage of justice by ruling that substantially similar prior drug-distribution convictions could be admitted to impeach Little if he testified.

HOLDINGS

1. The trial judge did not abuse his discretion in permitting Detective Keating to testify as an expert regarding whether the marijuana and surrounding circumstances were more consistent with distribution than personal use.
2. Any portions of Keating's testimony that exceeded his expertise did not require reversal because Little failed to object and the testimony did not create a substantial risk of a miscarriage of justice.
3. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Little possessed marijuana with intent to distribute, and the trial judge properly denied the motion for a required finding of not guilty.
4. The trial judge erred in ruling that Little's prior convictions for drug distribution and possession with intent to distribute would be admitted if he testified.

KEY QUOTATIONS

"The similarity of the crimes should have raised a "red flag." Instead, that factor was employed as a basis for admitting the convictions." (at 774)

"The judge's decision effectively prevented him from doing so, thereby creating a substantial risk of a miscarriage of justice." (at 775)

FACTUAL BACKGROUND

Police stopped Christopher Little while he was driving a vehicle with an expired inspection sticker and learned that his driver's license was suspended. After arresting him, officers found fifteen individually packaged bags of marijuana, \$254 in cash, and a cellular telephone, but no smoking paraphernalia. A narcotics investigator testified that the circumstances were more consistent with intent to distribute than personal use. The trial judge also ruled that the Commonwealth could use Little's prior drug-distribution convictions if he testified.

PROCEDURAL HISTORY

The trial judge denied the defendant's motion for a required finding of not guilty and ruled that, if the defendant testified, the Commonwealth could introduce prior convictions involving drug distribution to impeach him. The jury returned a guilty verdict, and the defendant was sentenced to two years' imprisonment. The Supreme Judicial Court held that the expert-testimony and sufficiency challenges failed, but that the prior-conviction ruling created a substantial risk of a miscarriage of justice; it reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment is reversed, the jury verdict is set aside, and the case is remanded for a new trial. On retrial, any use of the prior convictions for impeachment must be evaluated under the required probative-value versus prejudice balancing analysis.

CASES CITED

- Commonwealth v. Latimore, 378 Mass. 671, 677-678 (1979)
- Commonwealth v. Miranda, 441 Mass. 783, 792-795 (2004)
- Commonwealth v. Francis, 390 Mass. 89, 98 (1983)
- Commonwealth v. Johnson, 413 Mass. 598, 604 (1992)
- Commonwealth v. Johnson, 410 Mass. 199, 202 (1991)
- Commonwealth v. Robinson, 43 Mass. App. Ct. 257, 259 (1997)
- Commonwealth v. Bienvenu, 63 Mass. App. Ct. 632, 636 (2005)
- Commonwealth v. Wilson, 441 Mass. 390, 400-402 (2004)
- Commonwealth v. Gollman, 436 Mass. 111, 116 (2002)
- Commonwealth v. Grissett, 66 Mass. App. Ct. 454, 457 (2006)
- Commonwealth v. Daye, 411 Mass. 719, 741-742 (1992)
- Commonwealth v. Villanueva, 47 Mass. App. Ct. 905, 907 (1999)
- Commonwealth v. Pikul, 400 Mass. 550, 554 (1987)
- Simon v. Solomon, 385 Mass. 91, 105 (1982)
- Commonwealth v. Crouse, 447 Mass. 558, 564-565 (2006)
- Commonwealth v. Leftwich, 430 Mass. 865, 869 (2000)
- Commonwealth v. Fono, 400 Mass. 296, 302-303 (1987)
- Commonwealth v. Maguire, 392 Mass. 466, 469-471 (1984)
- Commonwealth v. Whelton, 428 Mass. 24, 25-26 (1998)
- Commonwealth v. Keniston, 423 Mass. 304, 308 (1996)
- Commonwealth v. Drumgold, 423 Mass. 230, 250 (1996)

- Commonwealth v. Whitman, 416 Mass. 90, 94-95 (1993)
- Commonwealth v. Paulding, 438 Mass. 1, 12 (2002)
- Commonwealth v. DiMarzo, 364 Mass. 669, 681 (1974)
- Commonwealth v. Reid, 400 Mass. 534, 538 (1987)
- Commonwealth v. Preston, 27 Mass. App. Ct. 16, 23 (1989)
- Commonwealth v. Guilfoyle, 396 Mass. 1003, 1004 (1985)
- Commonwealth v. Chase, 372 Mass. 736, 750 (1977)
- Commonwealth v. Brown, 451 Mass. 200, 210-211 (2008)
- Commonwealth v. Walker, 401 Mass. 338, 346 (1987)
- Commonwealth v. Lanigan, 419 Mass. 15, 24 (1994)

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