

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Conkey

443 Mass. 60 (2004) · Decided December 16, 2004

SUMMARY

The Massachusetts Supreme Judicial Court reversed Craig W. Conkey’s convictions for murder and related offenses because the trial judge improperly excluded evidence concerning a third-party culprit’s alleged pattern of sexual aggression. The court held that the exclusion violated Conkey’s constitutional right to present a defense and was not harmless beyond a reasonable doubt. The opinion also addresses the admissibility of evidence concerning Conkey’s refusal to provide a written statement, the sufficiency of the evidence, and several issues relevant to retrial.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cowin, J.
JURISDICTION	Massachusetts
DECIDED	December 16, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant appealed from convictions entered after his second murder trial and from the denial of his motion for a new trial.
STANDARD OF REVIEW	The court independently reviewed the constitutional question concerning admission of third-party culprit evidence rather than applying abuse-of-discretion review. It reviewed sufficiency of the evidence by asking whether, viewing the evidence in the light most favorable to the Commonwealth, a rational trier of fact could find each element beyond a reasonable doubt. It reviewed denial of a renewed suppression motion without a further hearing for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Craig W. Conkey v. Commonwealth

TOPICS

- criminal procedure
- evidence
- due process
- appellate procedure
- suppression of evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether excluding evidence of the landlord's prior sexually aggressive acts, lingerie, and sexually explicit photographs violated the defendant's constitutional right to present third-party culprit evidence.
2. Whether evidence that the defendant refused to provide a written statement to police violated his privilege against self-incrimination under article 12.
3. Whether the Commonwealth presented sufficient evidence to support the murder convictions.
4. Whether the defendant was entitled to a further evidentiary hearing on his renewed motion to suppress statements allegedly elicited by a government agent.
5. Whether other challenged evidentiary, prosecutorial, instructional, and merger issues required relief at that stage of the proceedings.

HOLDINGS

1. The exclusion of the proffered evidence concerning the landlord's pattern of sexual aggression, lingerie, and sexually explicit photographs violated the defendant's constitutional right to present evidence that another person committed the crime.
2. Over objection, the Commonwealth may not introduce evidence that the defendant refused to comply with a police request to provide a written statement because doing so forces a choice between two potentially inculpatory alternatives and violates article 12.
3. The evidence was sufficient to permit a rational trier of fact to find beyond a reasonable doubt that the defendant, rather than another person, murdered the victim.
4. The judge did not abuse her discretion by denying the renewed suppression motion without another evidentiary hearing because the defendant raised no legally material new issue requiring a further hearing.

KEY QUOTATIONS

“A defendant has a constitutional right to present evidence that another may have committed the crime.” (443 Mass. at 66)

“Based on the totality of the showing here, we conclude that the new evidence altered the equation, tipping the balance in favor of admission, and that the defendant was denied his right to present evidence that another committed the crime.” (443 Mass. at 70)

“The defendant was forced to choose between “two potentially inculpatory alternatives” (either providing a written statement or having evidence of his election not to do so placed before the jury).” (443 Mass. at 71-72)

FACTUAL BACKGROUND

The victim was found strangled and beaten in her Lexington home after evidence of a possible burglary and possible sexual assault. The defendant lived nearby, had burglarized occupied homes, and admitted entering the victim's house but claimed she was already dead when he arrived. The defense sought to introduce evidence that the victim's landlord, who had access to the home, had been rejected by the victim and had engaged in a pattern of sexually aggressive conduct toward women, as well as evidence of lingerie and sexually explicit photographs found in his home. The trial judge excluded that evidence.

PROCEDURAL HISTORY

The defendant was convicted in 1996 of murder in the first degree and related offenses. The Supreme Judicial Court reversed those convictions in 1999 because the admission of evidence that he refused to provide fingerprints violated article 12 of the Massachusetts Declaration of Rights. After a second trial in 2001, the defendant was again convicted of murder in the first degree, armed burglary, and armed assault in a dwelling. The court reversed the second set of convictions because the trial judge improperly excluded third-party culprit evidence and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgments were reversed, the verdicts were set aside, and the cases were remanded to the Superior Court for a new trial. The court directed that the third-party culprit evidence be evaluated under ordinary admissibility requirements at retrial and indicated that evidence of the defendant's refusal to provide a written statement and the source of his fingerprints should not be admitted over objection.

CASES CITED

- Commonwealth v. Conkey, 430 Mass. 139 (1999)
- Commonwealth v. Tague, 434 Mass. 510, 515-516 (2001), cert. denied, 534 U.S. 1146 (2002)
- Commonwealth v. Jewett, 392 Mass. 558, 562 (1984)
- Commonwealth v. Lawrence, 404 Mass. 378, 387 (1989)
- Commonwealth v. Harris, 395 Mass. 296, 300 (1985)
- Commonwealth v. Hunter, 426 Mass. 715, 716-717 (1998)
- Commonwealth v. Keizer, 377 Mass. 264, 267 (1979)
- Commonwealth v. Mahnke, 368 Mass. 662, 667 (1975), cert. denied, 425 U.S. 959 (1976)
- Commonwealth v. Vinnie, 428 Mass. 161, 163 (1998), cert. denied, 525 U.S. 1007 (1998)
- Commonwealth v. Delaney, 442 Mass. 604, 607-612 (2004)
- Commonwealth v. Latimore, 378 Mass. 671, 677-678 (1979)
- Commonwealth v. Lodge, 431 Mass. 461, 465 (2000)
- Commonwealth v. Bush, 427 Mass. 26, 30 (1998)
- Commonwealth v. Merola, 405 Mass. 529, 533 (1989)

- Commonwealth v. Anderson, 396 Mass. 306, 311-312 (1985)
- Commonwealth v. Casale, 381 Mass. 167, 175-176 (1980)
- Cramer v. Commonwealth, 419 Mass. 106, 111 (1994)
- Commonwealth v. Cryer, 426 Mass. 562, 569-570 (1998)
- Commonwealth v. Tavares, 385 Mass. 140, 149-150 (1982), cert. denied, 457 U.S. 1137 (1982)
- Commonwealth v. Stroyny, 435 Mass. 635, 646 (2002)

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