

SUPREME JUDICIAL COURT OF MAINE

State v. Dolloff

58 A.3d 1032 (Me. 2012) · Decided November 27, 2012

SUMMARY

The Maine Supreme Judicial Court reviewed Linda Dolloff’s convictions for attempted murder, elevated aggravated assault, and false public alarm or report arising from an assault on her estranged husband. The court addressed challenges to the admission of electronic documents, testimony about family relationships, expert testimony concerning bloody footprints, and alleged prosecutorial misconduct. It affirmed the judgments of conviction.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Alexander; Gorman; Jabar; Levy; Mead; Sauflley; Silver
JURISDICTION	Maine
DECIDED	November 27, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Linda Dolloff appealed from judgments of conviction entered after a jury found her guilty of attempted murder, elevated aggravated assault, and false public alarm or report. She challenged evidentiary rulings and alleged prosecutorial misconduct.
STANDARD OF REVIEW	Relevance determinations are reviewed for clear error; most other evidentiary-admissibility rulings and responses to alleged discovery violations are reviewed for abuse of discretion. Preserved prosecutorial-misconduct claims are reviewed for actual misconduct, adequacy of the trial court's response, and harmless error. Unpreserved claims are reviewed for obvious error.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Judicial Court of Maine.
PARTIES	Linda Dolloff v. State of Maine

TOPICS

prosecutorial misconduct

harmless error

preservation of error

evidence

appellate procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate practice

QUESTIONS PRESENTED

1. Whether the trial court erred by admitting electronic documents recovered from Dolloff's computer.
2. Whether the trial court erred by admitting contextual testimony about Dolloff's strained relationship with Jeffrey's daughters.
3. Whether the trial court abused its discretion by permitting expert testimony concerning how bloody footprints were created despite the claimed discovery violation.
4. Whether the prosecutor committed misconduct through statements during witness examination, closing argument, and rebuttal.
5. Whether any preserved or unpreserved prosecutorial misconduct, considered individually or cumulatively, deprived Dolloff of a fair trial.

HOLDINGS

1. The trial court properly admitted the electronic documents found in the 'Corinthians' Word file because they were relevant to Dolloff's state of mind, planning, and motivations; sufficiently authenticated; and not unfairly prejudicial under the Maine Rules of Evidence.
2. The trial court did not abuse its discretion by allowing the State's expert to testify about how bloody footprints were likely created or by denying Dolloff's request to strike the testimony because Dolloff was not prejudiced by the alleged discovery violation.
3. A prosecutor may argue the State's case with vigor, wit, satire, invective, and imaginative illustration, but may not invite the jury to decide the case based on bias, prejudice, conjecture, unsupported facts, personal opinion, burden shifting, or other impermissible considerations.
4. When prosecutorial misconduct is preserved by objection, the reviewing court determines whether misconduct occurred, whether the trial court's response remedied resulting prejudice, and whether any remaining error was harmless.
5. An unpreserved prosecutorial-misconduct claim warrants relief only upon obvious error: an error that is plain, affects substantial rights, and seriously affects the fairness, integrity, or public reputation of judicial proceedings. The challenged misconduct, considered individually and cumulatively, did not meet that standard.

KEY QUOTATIONS

"The central question is whether the [prosecutor's] comment is fairly based on the facts in evidence." (58 A.3d at 1046)

"The mere existence of a misstatement by a prosecutor at trial, or the occasional verbal misstep, will not necessarily constitute misconduct when viewed in the context of the proceedings." (58 A.3d at 1047)

“Our ultimate task in reviewing for both harmless error and obvious error is to determine whether Linda received a fair trial.” (58 A.3d at 1054)

FACTUAL BACKGROUND

Jeffrey Dolloff was assaulted in his bedroom with his own softball bat and suffered life-threatening injuries. His estranged wife, Linda Dolloff, reported that an intruder had entered the home, shot her, and injured Jeffrey, but investigators found evidence including the bat, firearms, blood, DNA, opened drawers, and other circumstances supporting the State's theory that she had staged a home invasion. The forensic and DNA evidence was partly inconclusive, and there were no eyewitnesses to the assault. The jury nevertheless found Dolloff guilty of attempted murder, elevated aggravated assault, and false public alarm or report.

PROCEDURAL HISTORY

Dolloff was indicted on July 10, 2009, pleaded not guilty, and was tried before a jury over fifteen days. The trial court admitted the challenged electronic documents, testimony concerning Dolloff's relationship with the victim's daughters, expert testimony about bloody footprints, and other evidence. The jury returned guilty verdicts on all three charges, and the trial court imposed concurrent sentences, including twenty-five years with all but sixteen years suspended and four years of probation on the attempted-murder and elevated-aggravated-assault convictions. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Haag, 2012 ME 94, ¶¶ 2, 17, 48 A.3d 207
- State v. Mooney, 2012 ME 69, ¶ 11, 43 A.3d 972
- State v. Mills, 2006 ME 134, ¶ 8, 910 A.2d 1053
- State v. Reese, 2010 ME 30, ¶ 14, 991 A.2d 806
- State v. Berke, 2010 ME 34, ¶¶ 11-17, 992 A.2d 1290
- State v. Patton, 2012 ME 101, ¶ 24, 50 A.3d 544
- State v. Hurd, 360 A.2d 525, 527 n.5 (Me. 1976)
- State v. Mannion, 637 A.2d 452, 454 (Me. 1994)
- State v. Cook, 581 A.2d 415, 417 (Me. 1990)
- State v. Clark, 2008 ME 136, ¶ 7, 954 A.2d 1066
- State v. Hinds, 485 A.2d 231, 237 (Me. 1984)
- State v. Conner, 434 A.2d 509, 512 (Me. 1981)
- State v. Reilly, 446 A.2d 1125, 1129 (Me. 1982)
- State v. Bennett, 658 A.2d 1058, 1068 (Me. 1995)
- State v. Pabon, 2011 ME 100, ¶¶ 29, 34-35, 28 A.3d 1147

- United States v. Olano, 507 U.S. 725, 734 (1993)
- United States v. De La Paz-Rentas, 613 F.3d 18, 25 n.2, 26 (1st Cir. 2010)
- State v. Pelletier, 673 A.2d 1327, 1330 (Me. 1996)
- United States v. Frady, 456 U.S. 152, 163 (1982)
- State v. Weisbrode, 653 A.2d 411, 416 (Me. 1995)
- State v. Lockhart, 2003 ME 108, ¶ 48, 830 A.2d 433
- State v. Pendexter, 495 A.2d 1241, 1241 (Me. 1985)
- State v. Gould, 2012 ME 60, ¶¶ 14-21, 43 A.3d 952
- State v. Williams, 2012 ME 63, ¶ 46, 52 A.3d 911
- United States v. Gentles, 619 F.3d 75, 81-84 (1st Cir. 2010)
- United States v. Azubike, 504 F.3d 30, 38 (1st Cir. 2007)
- United States v. Joyner, 191 F.3d 47, 53-54 (1st Cir. 1999)
- United States v. Glover, 558 F.3d 71, 76-79 (1st Cir. 2009)
- State v. Burgoyne, 452 A.2d 393, 396-97 (Me. 1982)
- State v. Schmidt, 2008 ME 151, ¶¶ 16-17, 957 A.2d 80
- State v. Moontri, 649 A.2d 315, 317 (Me. 1994)
- Darden v. Wainwright, 477 U.S. 168, 182 (1986)
- United States v. Mejia-Lozano, 829 F.2d 268, 274 (1st Cir. 1987)
- State v. Corrieri, 654 A.2d 419, 422 (Me. 1995)
- United States v. Procopio, 88 F.3d 21, 31 (1st Cir. 1996)
- State v. Cleaves, 2005 ME 67, ¶ 13, 874 A.2d 872
- State v. Pomerleau, 363 A.2d 692, 697 (Me. 1976)
- United States v. Kasenge, 660 F.3d 537, 542 (1st Cir. 2011)
- State v. True, 438 A.2d 460, 467 (Me. 1981)
- Arizona v. Fulminante, 499 U.S. 279, 306-12 (1991)
- Chapman v. California, 386 U.S. 18, 22-24 (1967)
- United States v. Lane, 474 U.S. 438, 460-61 (1986) (Brennan, J., concurring in part and dissenting in part)
- State v. Dube, 522 A.2d 904, 908-09 (Me. 1987)
- State v. Moores, 2009 ME 102, ¶ 10, 982 A.2d 318
- State v. Bridges, 2004 ME 102, ¶ 10, 854 A.2d 855
- State v. Wood, 662 A.2d 908, 912 (Me. 1995)