

SUPREME COURT OF SOUTH CAROLINA

State v. Wharton, 381 S.C. 209

672 S.E.2d 786 (2009) · No. No. 26591 · Decided February 2, 2009

SUMMARY

The Supreme Court of South Carolina held that the trial court erred by charging the jury on voluntary manslaughter because there was no evidence of sufficient legal provocation. The court upheld the refusal to charge on involuntary manslaughter and accident, finding no supporting evidence. It affirmed in part and vacated in part the court of appeals' decision and declined to resolve whether transferred intent applies to voluntary manslaughter.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Waller; Justice Pleicones; Acting Justice James E. Moore; Acting Justice Dorothy Mobley Jones
JURISDICTION	South Carolina
DECIDED	February 2, 2009
DOCKET	No. 26591
DISPOSITION	vacated
PROCEDURAL POSTURE	The State and Wharton separately petitioned for certiorari review of the South Carolina Court of Appeals' decision reversing Wharton's convictions after the trial court instructed the jury on voluntary manslaughter but refused instructions on involuntary manslaughter and accident.
STANDARD OF REVIEW	In criminal cases, the appellate court reviews errors of law only. A trial court's jury-charge decision will not be reversed when the charges, considered as a whole, correctly state the applicable law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The State v. Danny Orlando Wharton

TOPICS

- jury instructions
- lesser included offense instructions
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence supported a jury instruction on voluntary manslaughter based on sufficient legal provocation.
2. Whether transferred intent applies to voluntary manslaughter when an unintended victim is killed and the alleged provocation was committed by a third party.
3. Whether the evidence supported an instruction on involuntary manslaughter.
4. Whether the evidence supported an instruction on accident.

HOLDINGS

1. The trial court erred by instructing the jury on voluntary manslaughter because the record contained no evidence of sufficient legal provocation.
2. The court declined to decide whether transferred intent applies to voluntary manslaughter when the defendant kills an unintended victim after provocation by a third party, because there was no evidence of sufficient third-party provocation in this case.
3. The trial court properly refused to instruct the jury on involuntary manslaughter.
4. The trial court properly refused to instruct the jury on accident.

KEY QUOTATIONS

“In our view, there is no evidence in the record of sufficient legal provocation.” (214)

“However, because we find no evidence of sufficient legal provocation by a third party in this case, we need not address this issue.” (215)

“Accordingly, we affirm in part and vacate in part the court of appeals' decision.” (217)

FACTUAL BACKGROUND

After arguing with his former girlfriend, Wharton became enraged and instructed another person to bring a weapon to the house. He retrieved a gun from a vehicle, walked in the street while swinging it, and during an argument or confrontation with Clifton Shaw, the gun discharged and fatally struck Chris Luster. Trial testimony indicated that Wharton may have intended to fire into the air, but there was no evidence that Luster provoked him or that Shaw posed a weapon-based or hostile threat sufficient to constitute legal provocation.

PROCEDURAL HISTORY

Wharton was charged with murder and possession of a weapon during the commission of a violent crime. The jury convicted him of voluntary manslaughter and weapons possession. The court of appeals reversed, holding that the trial court erred by giving a voluntary-manslaughter instruction. The Supreme Court of South Carolina

granted both parties' certiorari petitions, affirmed the rulings concerning involuntary manslaughter and accident, and vacated the court of appeals' discussion of transferred intent.

DISPOSITION

vacated

CASES CITED

- State v. Baccus, 367 S.C. 41, 625 S.E.2d 216 (2006)
- State v. Rye, 375 S.C. 119, 651 S.E.2d 321 (2007)
- State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007)
- State v. Byrd, 323 S.C. 319, 474 S.E.2d 430 (1996)
- State v. Childers, 373 S.C. 367, 645 S.E.2d 233 (2007)
- State v. Chatman, 336 S.C. 149, 519 S.E.2d 100 (1999)
- State v. Reese, 370 S.C. 31, 633 S.E.2d 898 (2006)
- State v. Burriss, 334 S.C. 256, 513 S.E.2d 104 (1999)
- Tisdale v. State, 378 S.C. 122, 662 S.E.2d 410 (2008)
- State v. Wharton, 366 S.C. 56, 620 S.E.2d 83 (Ct. App. 2005)