

SUPREME COURT OF KANSAS

State v. Mann, 274 Kan. 670

State v. Mann, 274 Kan. 670, 56 P.3d 212 (2002) · No. No. 87,558 · Decided October 25, 2002

SUMMARY

The Supreme Court of Kansas reviewed Ahmon Mann’s conviction for first-degree murder. The court addressed claims concerning an eyewitness-identification instruction, the defendant’s presence during communications with jurors, prosecutorial misconduct, lesser-offense instructions, ineffective assistance of counsel, and speedy trial rights. The opinion concludes that the trial court’s failure to give an eyewitness-identification instruction was not erroneous and analyzes the alleged violation of Mann’s right to be present under harmless-error principles.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Lockett, J.; Larson, S.J., assigned
JURISDICTION	Kansas
DECIDED	October 25, 2002
DOCKET	No. 87,558
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mann appealed his conviction for first-degree premeditated murder and sentence of life imprisonment with no possibility of parole for 25 years. He challenged jury instructions, his absence from proceedings, prosecutorial argument, ineffective assistance of counsel, and denial of his statutory and constitutional speedy-trial rights.
STANDARD OF REVIEW	The court applied clear-error review to the unpreserved jury-instruction claims; harmless-error analysis beyond a reasonable doubt to constitutional-presence errors; a two-step plain-error framework to alleged prosecutorial misconduct; de novo review to the statutory and constitutional speedy-trial issues; and the Strickland framework to ineffective-assistance claims, while declining to consider the ineffective-assistance claim for the first time on direct appeal.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Ahmon Mann v. State of Kansas

TOPICS

criminal procedure

jury instructions

right to counsel

speedy trial

prosecutorial misconduct

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the trial court clearly erred by failing to give an eyewitness-identification instruction.
2. Whether Mann was denied his constitutional or statutory right to be present during three proceedings conducted outside his presence.
3. Whether the prosecutor committed reversible misconduct by stating during closing argument that the State believed Diaz was killed intentionally and with premeditation.
4. Whether the trial court clearly erred by failing to instruct the jury on voluntary manslaughter.
5. Whether Mann's ineffective-assistance claim could be considered on direct appeal and whether counsel's performance denied him a fair trial.
6. Whether Mann was denied his statutory 90-day speedy-trial right while being held on charges in another criminal case.
7. Whether the approximately seven-month delay violated Mann's constitutional right to a speedy trial.

HOLDINGS

1. The trial court did not clearly err by failing to give a cautionary eyewitness-identification instruction because the eyewitness personally knew Mann and the reliability of the identification was not seriously questionable.
2. The trial court erred by questioning four jurors outside Mann's presence without a waiver, but the error was harmless beyond a reasonable doubt. Mann had no constitutional or statutory right to be present during the conference concerning the duplicate videotape, and his absence during the jury-readback communication was also harmless.
3. The prosecutor's statement that the State believed Diaz was killed intentionally and with premeditation did not constitute reversible prosecutorial misconduct.
4. The trial court did not clearly err by failing to instruct the jury on voluntary manslaughter because the evidence did not support a finding that Mann killed Diaz in the heat of passion or upon a sudden quarrel.
5. The court declined to consider Mann's ineffective-assistance claim for the first time on direct appeal and, after reviewing the record relevant to the asserted deficiencies, concluded that counsel was effective and that Mann was not denied a fair trial.
6. Mann was not entitled to dismissal under K.S.A. 22-3402(1) because he was not held solely on the murder charge; he was simultaneously held on charges in another criminal case.

7. The approximately seven-month delay between arrest and trial did not violate Mann's constitutional right to a speedy trial because the delay was not presumptively prejudicial.

KEY QUOTATIONS

“The denial of a defendant's constitutional right to be present at all critical stages of the trial is subject to a constitutional analysis to determine if the error was harmless.” (683-684)

“The plain language of K.S.A. 22-3402(1) provides that the 90-day right to be brought to trial applies only when the defendant is charged with a crime and held solely on the basis of that charge.” (700)

FACTUAL BACKGROUND

Robert Diaz was shot and killed in his car at the intersection of 40th and Minnie in Kansas City, Kansas. Loren Artis, who knew Mann, testified that he saw Mann struggle with Diaz, heard gunshots, and saw Mann and Reggie Golden leave the car. The prosecution's case was primarily based on Artis's eyewitness testimony and circumstantial evidence, while Mann denied being in Diaz's car and claimed he had been waiting for Walter Coleman. The jury convicted Mann of first-degree premeditated murder.

PROCEDURAL HISTORY

Mann was charged in the district court with first-degree premeditated murder. After a five-day jury trial beginning January 29, 2001, the jury found him guilty, and the court imposed a life sentence with no parole eligibility for 25 years. The Supreme Court of Kansas affirmed the conviction and sentence.

DISPOSITION

affirmed

CASES CITED

- State v. Saenz, 271 Kan. 339, 22 P.3d 151 (2001)
- State v. Scott, 271 Kan. 103, 21 P.3d 516 (2001)
- State v. Richmond, 258 Kan. 449, 904 P.2d 974 (1995)
- State v. Warren, 230 Kan. 385, 635 P.2d 1236 (1981)
- State v. Gaines, 260 Kan. 752, 926 P.2d 641 (1996)
- State v. Calderon, 270 Kan. 241, 13 P.3d 871 (2000)
- State v. Bowser, 252 Kan. 582, 847 P.2d 1231 (1993)
- State v. Fulton, 269 Kan. 835, 9 P.3d 18 (2000)
- State v. High, 260 Kan. 480, 922 P.2d 430 (1996)
- Crease v. State, 252 Kan. 326, 845 P.2d 27 (1993)
- State v. Lopez, 271 Kan. 119, 22 P.3d 1040 (2001)
- State v. Rayton, 268 Kan. 711, 1 P.3d 854 (2000)
- State v. McGinnes, 266 Kan. 121, 967 P.2d 763 (1998)

- State v. Pabst, 268 Kan. 501, 996 P.2d 321 (2000)
- State v. Henry, 273 Kan. 608, 44 P.3d 466 (2002)
- State v. Lumley, 266 Kan. 939, 976 P.2d 486 (1999)
- State v. Parker, 273 Kan. 56, 41 P.3d 789 (2002)
- State v. Pierce, 260 Kan. 859, 927 P.2d 929 (1996)
- State v. Coop, 223 Kan. 302, 573 P.2d 1017 (1978)
- State v. Johnson, 258 Kan. 475, 905 P.2d 94 (1995)
- State v. Van Cleave, 239 Kan. 117, 716 P.2d 580 (1986)
- State v. Greene, 272 Kan. 772, 37 P.3d 633 (2001)
- State v. Orr, 262 Kan. 312, 940 P.2d 42 (1997)
- State v. Carter, 270 Kan. 426, 14 P.3d 1138 (2000)
- State v. Jenkins, 257 Kan. 1074, 898 P.2d 1121 (1995)
- Chamberlain v. State, 236 Kan. 650, 694 P.2d 468 (1985)
- State v. Green, 252 Kan. 548, 847 P.2d 1208 (1993)
- State v. Kendig, 233 Kan. 890, 666 P.2d 684 (1983)
- State v. Coleman, 253 Kan. 335, 856 P.2d 121 (1993)
- State v. Smith, 271 Kan. 666, 24 P.3d 727 (2001)
- State v. Ruff, 266 Kan. 27, 967 P.2d 742 (1998)
- State v. Abel, 261 Kan. 331, 932 P.2d 952 (1997)
- State v. Hill, 257 Kan. 774, 895 P.2d 1238 (1995)
- State v. Sanders, 224 Kan. 138, 578 P.2d 702 (1978)
- State v. Strong, 8 Kan. App. 2d 589, 663 P.2d 668 (1983)
- State v. Goss, 245 Kan. 189, 777 P.2d 781 (1989)
- State v. Pendergrass, 215 Kan. 806, 528 P.2d 1190 (1974)
- Barker v. Wingo, 407 U.S. 514 (1972)
- State v. Otero, 210 Kan. 530, 502 P.2d 763 (1972)