

COURT OF APPEALS OF MARYLAND

Morris v. State

418 Md. 194 (2011) · No. No. 34, September Term, 2010 · Decided February 23, 2011

SUMMARY

The Maryland Court of Appeals held that Franklin Morris preserved a Confrontation Clause challenge to the use of his codefendant's statement in their joint trial. It concluded that the codefendant's negotiated "miscellaneous agreement" did not produce a bona fide trial, causing the admission of the statement to violate Morris's confrontation rights under the Sixth Amendment and Article 21 of the Maryland Declaration of Rights. The court further held that the error was not harmless beyond a reasonable doubt and reversed Morris's convictions.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Maryland                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Harrell, J.; Bell, C.J.; Battaglia, J.; Greene, J.; Murphy, J.; Adkins, J.; Barbera, J.                                                                                                                                                                                                                                                                    |
| JURISDICTION          | Maryland                                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | February 23, 2011                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | No. 34, September Term, 2010                                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Morris was convicted in a joint jury trial in the Circuit Court for Baltimore City. The Court of Special Appeals affirmed in an unreported opinion. The Court of Appeals of Maryland granted certiorari, reversed, and remanded.                                                                                                                           |
| STANDARD OF REVIEW    | De novo review of preserved constitutional confrontation issues; harmless-error review requiring the State to establish beyond a reasonable doubt that the error did not influence the verdict. Evidentiary rulings are reviewed under the applicable abuse-of-discretion standard, although the court agreed with the lower court's non-hearsay analysis. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                             |
| PARTIES               | Franklin Morris v. State of Maryland                                                                                                                                                                                                                                                                                                                       |

TOPICS

sixth amendment

right to counsel

criminal procedure

hearsay

appellate procedure

## PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

## QUESTIONS PRESENTED

1. Whether Morris preserved a confrontation claim challenging the joint trial conducted under the miscellaneous agreement.
2. Whether the miscellaneous agreement, which effectively prevented Williams from presenting a defense while permitting the State to use Williams's testimonial statement, violated Morris's Sixth Amendment and Maryland constitutional confrontation rights.
3. Whether the confrontation violation was harmless beyond a reasonable doubt.
4. Whether Detective Conaway's testimony explaining why he seized clothing from Morris's vehicle was inadmissible hearsay and whether the trial judge's questioning of the detective compounded the error.
5. Whether the Court should review, under plain-error principles, the trial court's failure to give a limiting instruction concerning Williams's statement.

## HOLDINGS

1. Morris preserved a claim that the joint-trial arrangement created a confrontation violation because the miscellaneous agreement allowed the State to use Williams's statement in a manner that implicated Morris.
2. A proceeding in which a defendant effectively waives the right to testify, present opening and closing arguments, challenge jurors, and otherwise present a defense is not a bona fide trial for constitutional confrontation purposes; the miscellaneous agreement was functionally equivalent to a guilty plea agreement.
3. The miscellaneous agreement violated Morris's right to confront witnesses because it enabled the State to introduce Williams's testimonial out-of-court statement against Morris without a prior opportunity for cross-examination.
4. The confrontation violation was not harmless beyond a reasonable doubt and required reversal of Morris's convictions.
5. The detective's testimony was admissible for the limited non-hearsay purpose of explaining why he seized certain items, and the trial judge's questioning clarified that limited purpose.

## KEY QUOTATIONS

*“It is one thing for a defendant to waive his right to a jury trial; it is quite another for that defendant to waive his rights to take the stand in his own defense, to present opening and closing statements, and to question the biases of the very citizens selected to decide his guilt or innocence.”* (418 Md. at 219)

*“In view of the totality of the circumstances, the proceeding was not a trial as to Williams's guilt or innocence, in that Williams presented no defense and, therefore, was afforded "no reasonable chance" of a complete acquittal.”* (418 Md. at 220)

*“It could not proceed, however, as it did and, ultimately, circumvent Crawford.”* (418 Md. at 222)

## FACTUAL BACKGROUND

Stewart Williams and another man attempted to rob The Wine Underground, and Williams fired a handgun twice while fleeing. Police stopped a white sedan driven by Franklin Morris shortly afterward; Williams and another passenger were in the vehicle, and police later recovered a handgun and clothing associated with the attempted robbery. Williams gave a recorded statement describing the robbery and entering a white vehicle, while Morris denied knowing about the crime and testified that he had merely agreed to drive Williams home.

## PROCEDURAL HISTORY

The State charged Morris and Stewart Williams with offenses arising from an attempted armed robbery and sought a joint trial. Over Morris's severance and confrontation objections, the trial court permitted Williams to participate under a negotiated miscellaneous agreement that required him largely to refrain from presenting a defense while allowing the State to introduce his recorded statement. Morris was convicted, and the Court of Special Appeals rejected his confrontation and evidentiary arguments. The Court of Appeals held that Morris preserved his confrontation claim, found that the arrangement violated his confrontation rights, concluded that the error was not harmless beyond a reasonable doubt, and remanded for further proceedings.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The judgment was reversed, and the case was remanded to the Court of Special Appeals with direction to reverse the judgment of the Circuit Court for Baltimore City as to Morris and remand to that court for further proceedings not inconsistent with the opinion.

## CASES CITED

- Nair v. State, 51 Md. App. 234, 239, 442 A.2d 196, 199 (1982), cert. denied, 293 Md. 617 (1982)
- Bruton v. United States, 391 U.S. 123, 88 S. Ct. 1620, 20 L. Ed. 2d 476 (1968)
- Richardson v. Marsh, 481 U.S. 200, 208, 107 S. Ct. 1702, 1707, 95 L. Ed. 2d 176, 186 (1987)
- Crawford v. Washington, 541 U.S. 36, 59, 69, 124 S. Ct. 1354, 1369, 158 L. Ed. 2d 177, 197 (2004)
- State v. Bowers, 349 Md. 710, 724, 709 A.2d 1255, 1262 (1998)
- Tichnell v. State, 287 Md. 695, 715-16, 415 A.2d 830, 841 (1980)
- State v. Logan, 394 Md. 378, 390, 906 A.2d 374, 381 (2006)
- Gerald v. State, 299 Md. 138, 144-45, 472 A.2d 977, 981 (1983)

- Smith v. State, 375 Md. 365, 377-78, 381, 387, 825 A.2d 1055, 1062-63, 1065, 1068 (2003)
- Ogonowski v. State, 87 Md. App. 173, 175-85, 589 A.2d 513, 514-19 (1991)
- State v. Magwood, 290 Md. 615, 619 n. 2, 432 A.2d 446, 448 n. 2 (1981)
- Rock v. Arkansas, 483 U.S. 44, 49-50, 107 S. Ct. 2704, 2708, 97 L. Ed. 2d 37, 44-45 (1987)
- Spence v. State, 296 Md. 416, 419, 463 A.2d 808, 809 (1983)
- Baltimore v. Hurlock, 113 Md. 674, 677, 78 A. 558, 559 (1910)
- Sutton v. State, 289 Md. 359, 365-66, 424 A.2d 755, 759 (1981)
- Dixon v. State, 364 Md. 209, 772 A.2d 283 (2001)
- Chertkov v. State, 335 Md. 161, 175, 642 A.2d 232, 239 (1994)
- Davis v. Washington, 547 U.S. 813, 829, 126 S. Ct. 2266, 2278, 165 L. Ed. 2d 224, 241 (2006)
- Dorsey v. State, 276 Md. 638, 659, 350 A.2d 665, 678 (1976)
- Dove v. State, 415 Md. 727, 743-44, 4 A.3d 976, 985-86 (2010)
- Commonwealth v. Stone, 291 S.W.3d 696, 700 (Ky. 2009)
- Gray v. Maryland, 523 U.S. 185, 192, 118 S. Ct. 1151, 1155, 140 L. Ed. 2d 294, 301 (1998)
- Osburn v. State, 301 Md. 250, 254, 482 A.2d 905, 907 (1984)
- McKnight v. State, 280 Md. 604, 375 A.2d 551 (1977)
- Eiland v. State, 92 Md. App. 56, 73, 607 A.2d 42 (1992), rev'd on other grounds, Tyler v. State, 330 Md. 261, 623 A.2d 648 (1993)
- Cubbage v. State, 304 Md. 237, 240, 498 A.2d 632, 634 (1985)
- Barnes v. State, 70 Md. App. 694, 707, 523 A.2d 635, 641 (1987)
- Barnes v. State, 31 Md. App. 25, 35, 354 A.2d 499, 505 (1976)
- Morris v. State, 414 Md. 330, 995 A.2d 296 (2010)