

COLORADO COURT OF APPEALS, DIVISION II

People v. Kruse

819 P.2d 548 (Colo. App. 1991) · No. No. 89CA0713 · Decided November 12, 1991

SUMMARY

The Colorado Court of Appeals reversed Brian Scott Kruse's convictions for first degree assault, first degree criminal trespass, and crime of violence, remanding for a new trial. The court held that statements made to a psychiatric service worker during the defendant's court-ordered sanity-examination hospitalization were inadmissible under Colorado Revised Statutes § 16-8-107(1) and the privilege against self-incrimination. The court rejected the defendant's claims concerning inquiry into his withdrawn insanity plea and the sufficiency of the trespass evidence.

CASE DETAILS

COURT	Colorado Court of Appeals, Division II
WRITING FOR THE COURT	Judge Smith; Smith; Sternberg, C.J.; Van Cise
JURISDICTION	Colorado
DECIDED	November 12, 1991
DOCKET	No. 89CA0713
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed convictions entered on a jury verdict finding him guilty of first degree assault, first degree criminal trespass, and crime of violence.
STANDARD OF REVIEW	The court reviewed the admissibility of evidence under the governing statute, the propriety of the prosecution's inquiry under CRE 410, and the sufficiency of the evidence supporting the criminal-trespass conviction.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Brian Scott Kruse v. The People of the State of Colorado

TOPICS

- suppression of evidence
- fifth amendment
- self defense
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether statements made by the defendant to a psychiatric service worker during hospitalization for a court-ordered sanity examination were inadmissible under section 16-8-107(1) and the privilege against self-incrimination.
2. Whether the prosecution improperly explored the defendant's original plea of not guilty by reason of insanity under CRE 410.
3. Whether sufficient evidence supported the defendant's conviction for criminal trespass.

HOLDINGS

1. The phrase "during the course of a court-ordered examination" in section 16-8-107(1) includes all communications made by a defendant to any hospital employee during hospitalization for a sanity examination. The psychiatric service worker's testimony about Kruse's statements was therefore inadmissible because it violated the defendant's privilege against self-incrimination.
2. The defendant could not obtain reversal based on the prosecution's inquiry into his original insanity plea because the defendant first referred to that plea and thereby invited or injected the alleged error.
3. The evidence was sufficient to support the criminal-trespass conviction because Kruse's admissions to an investigating police officer, corroborated by testimony from several witnesses, established the offense beyond a reasonable doubt.

KEY QUOTATIONS

"In light of the foregoing, we hold that the phrase "during the course of a court-ordered examination" as set forth in § 16-8-107(1) must be construed to include all communications made by the defendant to any hospital employee during the course of his hospitalization for a sanity examination." (819 P.2d at 550)

"All observation of the behavior and conduct of the defendant during his period of psychiatric confinement is part of his "examination."" (819 P.2d at 550)

"In sum, we hold that the psychiatric service worker's testimony was inadmissible under § 16-8-107(1) on grounds that it violated the defendant's privilege against self-incrimination." (819 P.2d at 550)

FACTUAL BACKGROUND

Following an informant's tip, Kruse was arrested and confessed to entering cars near his apartment and taking cassette tapes and money. He also confessed to stabbing an alleged assault victim twice after the victim grabbed and tackled him. During a hospitalization for a court-ordered sanity examination, Kruse made statements to a psychiatric service worker expressing an intention to kill the victim and wishing the victim had died. At trial, Kruse relied on self-defense, but the jury convicted him of first degree assault, first degree criminal trespass, and crime of violence.

PROCEDURAL HISTORY

After being arrested and charged by information, Kruse initially pleaded not guilty by reason of insanity and was hospitalized at the Colorado State Hospital for a court-ordered sanity examination. He withdrew that plea, pleaded not guilty, and proceeded to a jury trial. The jury convicted him on all charges, and the Colorado Court of Appeals reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded for a new trial conducted in accordance with the court's opinion, including exclusion of the psychiatric service worker's testimony concerning statements made during the sanity-examination hospitalization.

CASES CITED

- In re Questions by U.S. District Court, 179 Colo. 270, 499 P.2d 1169 (1972)
- Huff v. Tipton, 810 P.2d 236 (Colo. App. 1991)
- Lewis v. Thulemeyer, 189 Colo. 139, 538 P.2d 441 (1975)
- People v. Rosenthal, 617 P.2d 551 (Colo. 1980)
- People v. Lyles, 186 Colo. 302, 526 P.2d 1332 (1974)
- People v. Zapata, 779 P.2d 1307 (Colo. 1989)
- People v. Watson, 668 P.2d 965 (Colo. App. 1983)