

SUPREME COURT OF SOUTH CAROLINA

State v. Phillips

Opinion No. 27607 (S.C. Feb. 17, 2016) · No. Appellate Case No. 2015-000351 · Decided February 17, 2016

SUMMARY

The South Carolina Supreme Court affirmed as modified Donna Lynn Phillips's conviction and twenty-five-year sentence for homicide by child abuse arising from her grandson's hydrocodone overdose. The court held that Phillips's own testimony could be considered under the waiver rule, but testimony offered by a co-defendant's witness could not; nevertheless, the remaining evidence was sufficient to support denial of the directed verdict motion.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Hearn; Chief Justice Pleicones; Justice Beatty; Justice Kittredge; Acting Justice Jean H. Toal
JURISDICTION	South Carolina
DECIDED	February 17, 2016
DOCKET	Appellate Case No. 2015-000351
DISPOSITION	affirmed
PROCEDURAL POSTURE	Phillips sought review by writ of certiorari of the South Carolina Court of Appeals' affirmance of her conviction and sentence after the trial court denied her motions for directed verdict.
STANDARD OF REVIEW	On review of the denial of a directed verdict, the court considers whether the State presented any substantial evidence reasonably tending to prove the defendant's guilt or from which guilt may be fairly and logically deduced, viewing the evidence in the light most favorable to the State. The reviewing court considers the existence, not the weight, of the evidence.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	Donna Lynn Phillips v. The State of South Carolina

TOPICS

- criminal procedure
- appellate procedure
- standard of review
- evidence

PRACTICE AREAS

criminal law

criminal procedure

appellate law

evidence

QUESTIONS PRESENTED

1. Whether the court of appeals erred in affirming the denial of Phillips's directed verdict motion by considering testimony presented by a codefendant and Phillips's own testimony.
2. Whether, after excluding testimony offered by the codefendant, the State presented sufficient evidence of homicide by child abuse, including extreme indifference to human life, to withstand a directed verdict motion.

HOLDINGS

1. By presenting evidence in her own defense, Phillips waived her right to have the sufficiency of the State's case reviewed solely on the State's case-in-chief; her own testimony could therefore be considered.
2. The waiver-rule exception applies not only to testimony of a codefendant but also to testimony offered by a codefendant's witnesses. The court of appeals therefore erred by considering Kayla Roper's testimony.
3. The trial court properly denied Phillips's directed verdict motion because the State presented sufficient direct and circumstantial evidence from which a reasonable juror could find that she administered the medication causing Child's death under circumstances manifesting extreme indifference to human life.

KEY QUOTATIONS

“In reviewing a motion for directed verdict, the trial court is concerned with the existence of evidence, not with its weight.”

“Today we clarify our holding in Hepburn that the waiver rule is inapplicable not only to testimony of a co-defendant but also to testimony offered by a co-defendant, as in this case, Kayla Roper's testimony.”

“Accordingly, the evidence was sufficient to allow a reasonable juror to conclude Phillips acted with extreme indifference to human life in administering the Tussionex.”

FACTUAL BACKGROUND

Twenty-one-month-old Child died from a hydrocodone overdose after spending the preceding weekend in the care of Phillips and her son. Testing showed hydrocodone and related substances in Child's blood and urine, and the State's evidence connected the substances to Phillips's Tussionex prescription medication. Phillips denied administering medication, but testified that Child was never left alone; other evidence indicated Child had access to or played with Phillips's medicine bottles. The jury convicted Phillips of homicide by child abuse.

PROCEDURAL HISTORY

Phillips was convicted in the Pickens County Circuit Court of homicide by child abuse and sentenced to twenty-five years' imprisonment. The court of appeals affirmed, relying in part on testimony from Phillips and a witness

called by a codefendant. The Supreme Court of South Carolina granted certiorari, held that the court of appeals improperly considered the codefendant's witness's testimony but properly could consider Phillips's own testimony under the waiver rule, and affirmed as modified.

DISPOSITION

affirmed

CASES CITED

- State v. Phillips, 411 S.C. 124, 767 S.E.2d 444 (Ct. App. 2014)
- State v. Hepburn, 406 S.C. 416, 753 S.E.2d 402 (2013)
- State v. Curtis, 356 S.C. 622, 591 S.E.2d 600 (2004)
- State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004)
- State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000)
- State v. Bennett, Opinion No. 27600 (S.C. Sup. Ct. Jan. 6, 2016)
- State v. Littlejohn, 228 S.C. 324, 89 S.E.2d 924 (1955)
- State v. Harry, 321 S.C. 273, 468 S.E.2d 76 (Ct. App. 1996)
- United States v. Belt, 574 F.2d 1234, 1237 (5th Cir. 1978)
- State v. Jarrell, 350 S.C. 90, 564 S.E.2d 362 (Ct. App. 2002)
- McKnight v. State, 378 S.C. 33, 661 S.E.2d 354 (2008)
- State v. Morris, Opinion No. 2014-UP-112 (S.C. Ct. App. Mar. 12, 2014)

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