

SUPREME COURT OF KANSAS

State v. Hollister

300 Kan. 458 (2014) · No. No. 106,317 · Decided August 1, 2014

SUMMARY

The Kansas Supreme Court held that a criminal defendant's death does not automatically abate a direct appeal, but an appellate court need only address issues involving statewide public interest, a continuing real controversy, or capable repetition. The court reviewed Hollister's sufficiency-of-the-evidence claim and held that circumstantial evidence supported his capital-murder conviction based on a contract or agreement to kill. The court affirmed the conviction in part and dismissed the remaining, moot issues.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam; Luckert, J.; Moritz, J., not participating
JURISDICTION	Kansas
DECIDED	August 1, 2014
DOCKET	No. 106,317
DISPOSITION	other
PROCEDURAL POSTURE	Direct appeal from a jury conviction for capital murder. The defendant died after filing the appeal but before oral argument.
STANDARD OF REVIEW	For sufficiency of the evidence, the court reviews all evidence in the light most favorable to the prosecution and asks whether a rational factfinder could have found the defendant guilty beyond a reasonable doubt. The court does not reweigh evidence, assess witness credibility, or resolve conflicting evidence.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential
PARTIES	Roger William Hollister v. State of Kansas

TOPICS

mootness appellate procedure standard of review criminal procedure reasonable doubt

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the death of a criminal defendant during a pending direct appeal requires the appellate court to review every issue raised.
2. Whether the evidence was sufficient to support Hollister's capital-murder conviction based on an intentional and premeditated killing pursuant to a contract or agreement to kill.
3. Whether the remaining claims concerning jury instructions, prosecutorial misconduct, and cumulative error should be addressed after Hollister's death.

HOLDINGS

1. The death of a criminal defendant does not automatically abate the defendant's direct appeal, but the appellate court need not consider every issue raised. It should address only issues that are of statewide interest and public-policy importance, remain a real controversy, or are capable of repetition.
2. The evidence was sufficient for a rational factfinder to find beyond a reasonable doubt that Hollister intentionally and with premeditation killed Patricia Kimmi pursuant to a contract or agreement to kill her, or was a party to such an agreement.

KEY QUOTATIONS

“Only issues meeting one of these criteria should be addressed.” (300 Kan. at 467)

“Accordingly, viewing the evidence in the light most favorable to the State, we hold that a rational factfinder could have found beyond a reasonable doubt that Hollister was guilty of the offense of capital murder pursuant to an agreement or contract to kill Patricia Kimmi.” (300 Kan. at 472)

FACTUAL BACKGROUND

Patricia Kimmi disappeared after an acrimonious divorce from Eugene Kimmi, who had repeatedly expressed a desire for her death. Investigators found physical evidence linking Hollister to a second scene, including his DNA on a cap and Patricia's blood on several items, and later found evidence that he had destroyed his red pickup truck and concealed Patricia's remains. Hollister made several statements implicating himself in transporting Patricia and indicated that he had agreed to help arrange or participate in her killing in exchange for money.

PROCEDURAL HISTORY

Hollister was convicted by a jury of capital murder under K.S.A. 21-3439(a)(2) and sentenced to life imprisonment without the possibility of parole. He timely filed a direct appeal and died while the appeal was pending. The Kansas Supreme Court considered only the sufficiency-of-the-evidence issue because it could potentially exonerate him and dismissed the remaining fact-specific claims as moot.

DISPOSITION

CASES CITED

- State v. Salts, 288 Kan. 263, 200 P.3d 464 (2009)
- State v. Burnison, 247 Kan. 19, 795 P.2d 32 (1990)
- State v. Jones, 220 Kan. 136, 551 P.2d 801 (1976)
- State v. Ellvin, 51 Kan. 784, 33 P. 547 (1893)
- State v. Fisher, 37 Kan. 404, 15 P. 606 (1887)
- State v. Burrell, 837 N.W.2d 459 (Minn. 2013)
- State v. Karson, 297 Kan. 634, 304 P.3d 317 (2013)
- State v. Hand, 297 Kan. 734, 304 P.3d 1234 (2013)
- Smith v. Martens, 279 Kan. 242, 106 P.3d 28 (2005)
- Board of Johnson County Commissioners v. Duffy, 259 Kan. 500, 912 P.2d 716 (1996)
- State v. Benn, 364 Mont. 153, 274 P.3d 47 (2012)
- State v. Ward, 292 Kan. 541, 256 P.3d 801 (2011)
- State v. Lowrance, 298 Kan. 274, 312 P.3d 328 (2013)
- Price v. Grimes, 234 Kan. 898, 677 P.2d 969 (1984)
- Cornett v. Roth, 233 Kan. 936, 666 P.2d 1182 (1983)
- State v. Cosby, 293 Kan. 121, 262 P.3d 285 (2011)
- State v. Scaife, 286 Kan. 614, 186 P.3d 755 (2008)
- State v. Scott, 271 Kan. 103, 21 P.3d 516 (2001)
- State v. Marks, 297 Kan. 131, 298 P.3d 1102 (2013)
- State v. Morton, 277 Kan. 575, 86 P.3d 535 (2004)
- State v. Cook, 286 Kan. 1098, 191 P.3d 294 (2008)
- Surland v. State, 392 Md. 17, 895 A.2d 1034 (2006)
- Bevel v. Commonwealth, 282 Va. 468, 717 S.E.2d 789 (2011)
- State v. Webb, 167 Wash. 2d 470, 219 P.3d 695 (2009)
- State v. McDonald, 144 Wis. 2d 531, 424 N.W.2d 411 (1988)