

SUPREME COURT OF DELAWARE

Torres v. State

979 A.2d 1087 (Del. 2009) · No. No. 12, 2009 · Decided August 24, 2009

SUMMARY

The Supreme Court of Delaware affirmed Angel Torres's convictions for trafficking and delivery of cocaine. The court rejected claims of prosecutorial misconduct, including alleged witness intimidation and improper vouching, and held that the evidence was sufficient to establish the identity and weight of cocaine involved in one transaction. The court also upheld the admission of evidence concerning an uncharged drug transaction under Delaware Rule of Evidence 404(b).

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Delaware                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Ridgely, Justice; Steele, Chief Justice; Berger, Justice                                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Delaware                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | August 24, 2009                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | No. 12, 2009                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Torres appealed his Superior Court convictions for two counts of trafficking cocaine over 100 grams and two counts of delivery of cocaine.                                                                                                                                                                                                                                                                                                                                    |
| STANDARD OF REVIEW    | Unpreserved prosecutorial-misconduct, evidence, and cumulative-error claims were reviewed for plain error. The court reviewed the denial of the motion for judgment of acquittal de novo, asking whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find the defendant guilty beyond a reasonable doubt. Evidentiary rulings were reviewed for abuse of discretion, followed by a prejudice inquiry if error was found. |
| PRECEDENTIAL VALUE    | Published Delaware Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Angel Torres v. State of Delaware                                                                                                                                                                                                                                                                                                                                                                                                                                             |

TOPICS

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

## PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate practice

## QUESTIONS PRESENTED

1. Whether the prosecutor improperly threatened Morales by emphasizing that he could receive an additional ten years in prison for lying under his plea agreement.
2. Whether the prosecutor improperly vouched for Morales's credibility by emphasizing the consequences of violating his plea agreement.
3. Whether sufficient evidence established that the substance involved in the October 21 transaction was cocaine weighing more than 100 grams.
4. Whether the Superior Court abused its discretion under Delaware Rules of Evidence 403 and 404(b) by admitting evidence of the uncharged November 1 drug transaction.
5. Whether the court committed plain error by admitting testimony concerning Torres's prior history of cocaine transactions despite prior rulings limiting such evidence.
6. Whether the cumulative effect of the alleged errors deprived Torres of a fair trial.

## HOLDINGS

1. The prosecutor did not violate due process by clarifying during redirect that Morales faced an additional ten years if he lied under his plea agreement; the questioning did not substantially interfere with Morales's free and unhampered decision to testify.
2. The prosecutor did not improperly vouch for Morales because the references to the plea agreement and the consequences of lying were based on facts in evidence and did not imply personal knowledge that Morales testified truthfully.
3. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Torres delivered more than 100 grams of cocaine on October 21, even though the substance was not recovered or chemically tested.
4. The Superior Court did not abuse its discretion by admitting evidence of the November 1 transaction under Delaware Rule of Evidence 404(b) to show a common scheme or plan and related matters.
5. The admission of testimony from Grillo and Willhide concerning their prior dealings with Morales and their awareness that Torres was Morales's supplier did not constitute plain error.
6. Cumulative-error review did not warrant reversal because the court found no individual error.

## KEY QUOTATIONS

*“Thus, the Sixth Circuit found that governmental conduct must amount to a substantial interference with a witness's free and unhampered determination to testify before a due process violation will be found.”* (979 A.2d at 1095)

*“Taken in the light most favorable to the State, this testimony alone was sufficient to establish both that the substance was cocaine and that it weighed in excess of 100 grams.”* (979 A.2d at 1097)

*“To summarize these requirements, we set forth five preconditions to admit evidence of other crimes under Rule 404(b): (1) the evidence must be material to an issue or ultimate fact in dispute in the case; (2) the evidence must be introduced for a purpose sanctioned by Rule 404(b), or to any other purpose not inconsistent with the basic prohibition against evidence of bad character or criminal disposition; (3) the uncharged misconduct must be proved by plain, clear, and conclusive evidence; (4) the uncharged misconduct must not be too remote in time from the charged offense; and (5) the evidence must be weighed in terms of its probative value versus its unfairly prejudicial effect.” (979 A.2d at 1099)*

## FACTUAL BACKGROUND

The Delaware State Police investigated Raul Morales through wiretaps, GPS surveillance, and physical surveillance. The State's evidence linked Torres to cocaine transactions with Morales on October 21 and October 27, 2006; the October 21 substance was not recovered, while evidence connected to later transactions included seized cocaine. Morales testified pursuant to a plea agreement requiring truthful cooperation, and recordings of conversations between Torres and Morales supported his testimony. The State also introduced evidence of an uncharged November 1 transaction to show a common scheme or plan.

## PROCEDURAL HISTORY

Torres was indicted in the Delaware Superior Court for offenses arising from October 21 and October 27, 2006 drug transactions. The jury found him guilty on all counts, and the trial court imposed a mandatory minimum sentence of sixteen years at Level V. The Supreme Court of Delaware reviewed claims of prosecutorial misconduct, insufficiency of the evidence, erroneous admission of uncharged-misconduct evidence, admission of prior drug-dealing evidence, and cumulative error, and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Hardy v. State, 962 A.2d 244, 247 (Del. 2008)
- Baker v. State, 906 A.2d 139, 150-151 (Del. 2006)
- Wainwright v. State, 504 A.2d 1096, 1100 (Del. 1986)
- Hunter v. State, 815 A.2d 730, 732, 737-738 (Del. 2002)
- Washington v. Texas, 388 U.S. 14 (1967)
- Webb v. Texas, 409 U.S. 95 (1972)
- United States v. Pierce, 62 F.3d 818, 832-833 (6th Cir. 1995)
- United States v. Smith, 997 F.2d 674, 680 (10th Cir. 1993)
- United States v. Jackson, 935 F.2d 832, 847 (7th Cir. 1991)
- United States v. Heller, 830 F.2d 150, 153-154 (11th Cir. 1987)
- Caldwell v. State, 770 A.2d 522, 530 (Del. 2001)
- White v. State, 816 A.2d 776, 779 (Del. 2003)

- Clayton v. State, 765 A.2d 940, 942-943 (Del. 2001)
- Hughes v. State, 437 A.2d 559, 571 (Del. 1981)
- Comer v. State, 977 A.2d 334 (Del. 2009)
- Pennewell v. State, 977 A.2d 800 (Del. 2009)
- Brown v. State, 967 A.2d 1250, 1252 (Del. 2009)
- Wright v. State, 953 A.2d 188, 190-191, 195 (Del. 2008)
- Campbell v. State, 974 A.2d 156, 168-169 (Del. 2009)
- Edwards v. State, 925 A.2d 1261, 1284-1285 (Del. 2006)
- Lilly v. State, 649 A.2d 1055, 1059 (Del. 1994)
- Charbonneau v. State, 904 A.2d 295, 304 (Del. 2006)
- Getz v. State, 538 A.2d 726, 730, 734 (Del. 1988)
- Ashley v. State, 1993 WL 397604, at \*2 (Del. 1993)
- Wright v. State, 405 A.2d 685, 690 (Del. 1979)
- Robelen Piano Co. v. Di Fonzo, 169 A.2d 240, 248 (Del. 1961)