

SUPREME COURT OF WYOMING

Charles Frederick Secrest v. The State of Wyoming

2013 WY 102 (Wyo. 2013) · No. S-12-0263 · Decided August 29, 2013

SUMMARY

The Wyoming Supreme Court affirmed Charles Frederick Secrest’s conviction for aggravated assault and battery. The court held that the district court did not abuse its discretion by denying a continuance requested to allow newly retained counsel additional preparation time, and that the jury’s verdict and special findings were not invalid due to alleged inconsistencies.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Kite, C.J.; Hill, J.; Voigt, J.; Burke, J.; Davis, J.
JURISDICTION	Wyoming
DECIDED	August 29, 2013
DOCKET	S-12-0263
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a jury trial and conviction for aggravated assault and battery, Secrest appealed the district court's denial of his motions to continue trial and substitute newly retained counsel, and challenged alleged inconsistencies in the jury's special verdict findings.
STANDARD OF REVIEW	The denial of a motion to continue is reviewed for abuse of discretion and will not be disturbed absent a clear showing of abuse resulting in manifest injustice. Because Secrest did not object to the verdict form below, the alleged verdict inconsistency was reviewed for plain error.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Charles Frederick Secrest v. The State of Wyoming

TOPICS

- criminal procedure
- right to counsel
- appellate procedure
- jury instructions
- standard of review

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court violated Secrest's Sixth Amendment right to counsel of choice by denying a continuance sought to allow newly retained counsel additional time to prepare for trial.
2. Whether alleged inconsistencies between the jury's aggravated-assault-and-battery verdict and its special findings required a new trial.

HOLDINGS

1. The district court did not abuse its discretion or violate Secrest's Sixth Amendment right to counsel of choice by denying a continuance requested less than a week before trial to allow newly retained counsel additional preparation time.
2. The verdict and special findings were not legally inconsistent because Wyoming's aggravated-assault-and-battery statute is satisfied by attempting to cause, intentionally causing, or knowingly causing bodily injury with a deadly weapon; alternatively, alleged inconsistencies in a verdict do not invalidate the verdict absent plain error and material prejudice.

KEY QUOTATIONS

"A defendant's Sixth Amendment right to counsel does include the right to be represented by an attorney of the defendant's own choice. That right is not, however, without limits." (¶ 16)

"The district court did not abuse its discretion in denying Secrest's motion to continue his jury trial to allow newly retained counsel additional time to prepare for trial, and there was no plain error in the alleged inconsistencies in the verdict form. Affirmed." (¶ 23)

FACTUAL BACKGROUND

On August 13, 2011, Charles Secrest struck Zach Barnes on the head and face with a beer bottle after a disagreement at a bar. Barnes suffered lacerations requiring sutures to his lip, forehead, and cheek. Shortly before the scheduled trial, Secrest retained private counsel and sought a continuance so that counsel could prepare, but the district court denied the request while allowing private counsel to participate alongside appointed counsel.

PROCEDURAL HISTORY

Secrest was charged in the District Court of Sublette County, pleaded not guilty, and requested a jury trial. After a substitution of appointed public defenders delayed the original trial date, the court denied a second continuance sought shortly before trial to permit newly retained counsel additional preparation time. The jury convicted Secrest of aggravated assault and battery, the court entered judgment and imposed a four-to-seven-year sentence with credit for time served, and the Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Sincock v. State*, 2003 WY 115, ¶ 25, 76 P.3d 323, 333-34 (Wyo. 2003)
- *Clearwater v. State*, 2 P.3d 548, 553 (Wyo. 2000)
- *Grady v. State*, 2008 WY 144, ¶ 18, 197 P.3d 722, 729 (Wyo. 2008)
- *Shipman v. State*, 2001 WY 11, ¶ 19, 17 P.3d 34, 38 (Wyo. 2001)
- *Irvin v. State*, 584 P.2d 1068, 1073-74 (Wyo. 1978)
- *Adger v. State*, 584 P.2d 1056, 1058 (Wyo. 1978)
- *Ash v. State*, 555 P.2d 221, 224-25 (Wyo. 1976)
- *United States v. Mendoza-Salgado*, 964 F.2d 993, 1016 (10th Cir. 1992)
- *Chandler v. Fretag*, 348 U.S. 3, 75 S. Ct. 1, 99 L. Ed. 4 (1954)
- *United States v. Gonzalez-Lopez*, 548 U.S. 140, 152, 126 S. Ct. 2557, 2565-66, 165 L. Ed. 2d 409 (2006)
- *United States v. Kelm*, 827 F.2d 1319, 1322 n.2 (9th Cir. 1987)
- *United States v. Burton*, 584 F.2d 485, 491 (D.C. Cir. 1978), cert. denied, 439 U.S. 1069, 99 S. Ct. 837, 59 L. Ed. 2d 34 (1979)
- *Jealous v. State*, 2011 WY 171, ¶ 11, 267 P.3d 1101, 1104 (Wyo. 2011)
- *Clegg v. State*, 655 P.2d 1240, 1243 (Wyo. 1982)
- *Cazier v. State*, 2006 WY 153, ¶ 10, 148 P.3d 23, 28 (Wyo. 2006)
- *Pendleton v. State*, 2008 WY 36, ¶ 11, 180 P.3d 212, 216 (Wyo. 2008)
- *Joreski v. State*, 2012 WY 143, ¶ 11, 288 P.3d 413, 416 (Wyo. 2012)
- *Burnett v. State*, 2011 WY 169, ¶ 22, 267 P.3d 1083, 1090 (Wyo. 2011)
- *Giles v. State*, 2004 WY 101, ¶ 46, 96 P.3d 1027, 1043 (Wyo. 2004)
- *Mickelson v. State*, 2008 WY 29, ¶ 14, 178 P.3d 1080, 1084 (Wyo. 2008)
- *Moore v. State*, 2003 WY 153, ¶ 16, 80 P.3d 191, 196 (Wyo. 2003)

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