

SUPREME COURT OF OHIO

Rucker v. State, 118 Ohio St. 175

162 N.E. 802 (Ohio 1928) · Decided May 31, 1928

SUMMARY

The Ohio Supreme Court affirmed Rucker's homicide conviction. It held that the record supported voluntary intoxication rather than settled insanity, that the trial court properly exercised discretion regarding the timing of the state's peremptory challenges, and that no self-defense instruction was required.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Day; Marshall, C.J.; Allen, J.; Day, J.; Kinkade, J.; Robinson, J.; Jones, J.; Matthias, J.
JURISDICTION	Ohio
DECIDED	May 31, 1928
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rucker sought review of a criminal homicide judgment after the Court of Appeals affirmed the trial court's judgment. He alleged error concerning the insanity defense, the State's exercise of peremptory challenges, and the failure to instruct on self-defense.
STANDARD OF REVIEW	The Supreme Court examined the record for prejudicial or reversible error and reviewed the trial court's control of the order of peremptory challenges for abuse of sound judicial discretion.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Rucker v. State

TOPICS

- criminal procedure
- jury instructions
- self defense
- jury selection
- evidence

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence

QUESTIONS PRESENTED

1. Whether the evidence raised a legally cognizable defense of insanity distinct from voluntary intoxication and required an insanity instruction or permitted lay witnesses to express opinions concerning Rucker's mental condition.
2. Whether the trial court erred by allowing the State to exercise a peremptory challenge after passing its challenge on an earlier occasion without expressly waiving the right.
3. Whether the trial court committed prejudicial error by failing to instruct the jury on self-defense when the defendant did not request such an instruction.

HOLDINGS

1. Voluntary intoxication is not a defense to crime, although it may bear on intent, premeditation, deliberation, or the degree of homicide. Insanity caused by chronic alcoholism may affect criminal responsibility, but the record did not show settled or preexisting insanity; it showed acute voluntary intoxication instead. The trial court therefore committed no reversible error in refusing the requested insanity instruction.
2. Where the statute does not fix the time or order for exercising peremptory challenges, the order of challenges is subject to the sound judicial discretion of the trial court. Passing a peremptory challenge without expressly waiving it does not preclude the State from later exercising its statutory challenge.
3. A defendant generally must call the trial court's attention to an omitted applicable instruction and make a specific request to preserve reversible error based on the omission. In any event, the evidence did not justify a self-defense instruction because Rucker fired at officers after recognizing them and realizing they were about to arrest him.

KEY QUOTATIONS

“It is well established in American jurisprudence that drunkenness is not a defense to crime.” (at 195)

“We are unable to reach the conclusion that insanity as a defense to this homicide was shown to exist by this record.” (at 201)

“The time at which and the manner in which peremptory challenges shall be exercised in the trial of a criminal case is not fixed by statute, and where it is not so fixed the right must be controlled by the exercise of a sound judicial discretion by the trial judge.” (at 203)

FACTUAL BACKGROUND

Rucker was prosecuted for homicide after he fired a shotgun at officers who had discovered him and were about to arrest him, wounding Officer Yearion. The defense characterized his condition as drunkenness, mental derangement, or insanity, but the record showed no evidence of preexisting or settled insanity, no family history of insanity, and evidence that he had previously enjoyed good health and good habits. The record also showed that Rucker's actions after the shooting were directed toward escaping and resisting arrest.

PROCEDURAL HISTORY

At trial, the defense sought instructions concerning insanity and voluntary intoxication, objected to the State exercising a peremptory challenge after passing without waiving it, and did not request a self-defense instruction. The trial court rejected the claimed insanity defense, permitted the State to exercise its statutory challenges, and did not charge on self-defense. The Court of Appeals affirmed, and the Supreme Court of Ohio affirmed that judgment.

DISPOSITION

affirmed

CASES CITED

- Long v. State, 109 Ohio St. 77, 141 N.E. 691
- Nichols v. State, 8 Ohio St. 435
- Davis v. State, 25 Ohio St. 369
- Cline v. State, 43 Ohio St. 332, 1 N.E. 22
- Cheadle v. State, 11 Okl. Cr. 566, 149 P. 919
- State v. Kidwell, 62 W. Va. 466, 59 S.E. 494
- Miller v. State, 9 Okl. Cr. 55, 130 P. 813
- Director of Public Prosecutions v. Beard, [1920] L.R., A.C. 479
- State v. O'Neil, 51 Kan. 651, 33 P. 287
- State v. Habb, 105 La. 230, 29 So. 725
- Wertenberger v. State, 99 Ohio St. 353, 124 N.E. 243
- Blackburn v. State, 23 Ohio St. 146
- State v. Barry, 11 N.D. 428, 92 N.W. 809
- Jones v. State, 181 Ala. 63, 61 So. 434
- Maulding v. Commonwealth, 172 Ky. 370, 189 S.W. 251
- Lyon v. State, 16 Ohio St. 265, 155 N.E. 800
- Pointer v. United States, 151 U.S. 396, 410, 14 S. Ct. 410, 38 L. Ed. 208 (1894)
- Scott v. State, Scott v. State, 107 Ohio St. 475, 497, 141 N.E. 19
- State v. McCoy, 88 Ohio St. 447, 103 N.E. 136

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