

SUPREME COURT OF KENTUCKY

Watkins v. Commonwealth

105 S.W.3d 449 (Ky. 2003) · No. 2000-SC-1143-MR · Decided May 22, 2003

SUMMARY

The Supreme Court of Kentucky affirmed Gary Watkins Jr.'s convictions and underlying sentences for theft and second-degree escape but reversed his first-degree persistent felony offender conviction and enhanced sentences. The court held that the trial court erred by refusing a requested no-adverse-inference instruction during the PFO phase, while rejecting claims concerning Miranda, presence during legal discussions, and waiver of the right to testify.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Chief Justice Lambert; Lambert, C.J.; Cooper; Graves; Johnstone; Keller; Stumbo; Wintersheimer
JURISDICTION	Kentucky
DECIDED	May 22, 2003
DOCKET	2000-SC-1143-MR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	As a matter-of-right appeal from a Hart Circuit Court jury conviction for theft by unlawful taking over \$300, second-degree escape, and first-degree persistent felony offender status.
STANDARD OF REVIEW	Suppression findings under Kentucky Rule of Criminal Procedure 9.78 are conclusive if supported by substantial evidence. Unpreserved claims are reviewed for palpable error under RCr 10.26. The denial of a requested no-adverse-inference instruction was reviewed for legal error.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	Gary Watkins, Jr. v. Commonwealth of Kentucky

TOPICS

- sentencing
- criminal procedure
- miranda rights
- due process
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate criminal procedure

sentencing

QUESTIONS PRESENTED

1. Whether Watkins's statements to deputies after his capture were obtained through custodial interrogation without Miranda warnings and therefore should have been suppressed.
2. Whether the trial court erred by denying Watkins's requested no-adverse-inference instruction during the PFO/Truth in Sentencing phase.
3. Whether Watkins was denied his right to be present during legal discussions concerning the directed verdict and jury instructions.
4. Whether the case should be remanded for a hearing to determine whether Watkins knowingly and voluntarily waived his right to testify.

HOLDINGS

1. The trial court properly admitted Watkins's statements because its determination that the statements were voluntary was supported by substantial evidence, and Watkins's belated effort to contradict the deputy's testimony did not warrant reversal.
2. When requested, a defendant is entitled to a no-adverse-inference instruction during the portion of a combined penalty proceeding in which the jury determines guilt of persistent felony offender status.
3. Watkins was not entitled to reversal based on his absence from discussions between the court and counsel concerning the directed verdict and jury instructions because he remained in the courtroom, did not object to the in-chambers discussions, and showed no prejudice.
4. No retrospective hearing was required because the record contained no indication that Watkins wished to testify, disagreed with counsel's strategy, or was prevented from testifying.

KEY QUOTATIONS

“Thus, although a “no adverse inference” instruction is not required during the second phase of a trial where the jury is asked only to fix the defendant's punishment, the trial court erred when it failed to give the requested instruction during the combined PFO/Truth in Sentencing phase in this case.” (105 S.W.3d at 452)

“The right to testify is personal to the defendant, and the defendant's relinquishment of that right must be knowing and voluntary.” (105 S.W.3d at 453)

FACTUAL BACKGROUND

Watkins, an inmate working in the Hart County jail kitchen, stole a deputy jailer's Dodge Ram truck containing a gun and cash. After his capture in Maryland, he told deputies that he had stolen the truck and would have reached Canada if the truck's battery had not died. At trial, Watkins did not testify during either the guilt or penalty phases, and the jury found him guilty of first-degree persistent felony offender status and imposed enhanced sentences.

PROCEDURAL HISTORY

A Hart Circuit Court jury convicted Watkins of theft by unlawful taking over \$300, second-degree escape, and being a first-degree persistent felony offender, imposing a twenty-year sentence. The trial court admitted certain statements, denied a requested no-adverse-inference instruction during the combined PFO/Truth in Sentencing phase, rejected a challenge to Watkins's absence from legal conferences, and declined to order a retrospective hearing concerning his waiver of the right to testify. The Supreme Court of Kentucky affirmed the underlying convictions and five-year sentences for theft and escape, but reversed the PFO conviction and enhanced sentences and remanded for a new PFO/Truth in Sentencing proceeding.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a PFO/Truth in Sentencing proceeding at which Watkins must receive a no-adverse-inference instruction if he again elects not to testify.

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *Rhode Island v. Innis*, 446 U.S. 291 (1980)
- *Port v. Commonwealth*, 906 S.W.2d 327 (Ky. 1995)
- *Wells v. Commonwealth*, 892 S.W.2d 299 (Ky. 1995)
- *Carter v. Kentucky*, 450 U.S. 288 (1981)
- *Hibbard v. Commonwealth*, 661 S.W.2d 473 (Ky. 1983)
- *Young v. Commonwealth*, 50 S.W.3d 148 (Ky. 2001)
- *Byrd v. Commonwealth*, 825 S.W.2d 272 (Ky. 1992)
- *United States v. Gagnon*, 470 U.S. 522 (1985)
- *Snyder v. Massachusetts*, 291 U.S. 97 (1934)
- *Tamme v. Commonwealth*, 973 S.W.2d 13 (Ky. 1998)
- *Parrish v. Commonwealth*, 472 S.W.2d 69 (Ky. 1971)
- *Thomas v. Commonwealth*, 437 S.W.2d 512 (Ky. 1968)
- *Rock v. Arkansas*, 483 U.S. 44 (1987)
- *United States v. Webber*, 208 F.3d 545 (2000)
- *United States v. Joelson*, 7 F.3d 174 (9th Cir. 1993)
- *Riley v. Commonwealth*, 91 S.W.3d 560 (Ky. 2002)