

SUPREME COURT OF TENNESSEE

State of Tennessee v. Richard Odom, a/k/a Otis Smith

137 S.W.3d 572 (Tenn. 2004) · No. W2000-02301-SC-DDT-DD · Decided May 21, 2004

SUMMARY

The Tennessee Supreme Court reviewed Richard Odom's automatic appeal from a death sentence imposed after resentencing for the felony murder of Mina Ethel Johnson. The court held that a 1998 amendment permitting evidence about the facts and circumstances of prior felony convictions could not be applied retroactively to Odom's 1991 offense, and it addressed several evidentiary and procedural issues. The court reversed the judgment of the Court of Criminal Appeals and remanded for resentencing.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	E. Riley Anderson, Justice; Frank F. Drowota III, Chief Justice; Adolpho A. Birch Jr., Justice; Janice M. Holder, Justice; William M. Barker, Justice
JURISDICTION	Tennessee
DECIDED	May 21, 2004
DOCKET	W2000-02301-SC-DDT-DD
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Automatic appeal from the Tennessee Court of Criminal Appeals affirming a death sentence imposed after a resentencing proceeding.
STANDARD OF REVIEW	The court reviewed evidentiary rulings and denial of a continuance for abuse of discretion, reviewed constitutional claims de novo, and reviewed the retroactive application of the sentencing statute as a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Richard Odom, a/k/a Otis Smith v. State of Tennessee

TOPICS

- sentencing
- criminal procedure
- evidence
- statutory interpretation
- appellate procedure

PRACTICE AREAS

criminal law

capital sentencing

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly applied the 1998 amendment to Tennessee Code Annotated section 39-13-204(c) retroactively to permit evidence concerning the facts and circumstances of Odom's prior violent felony convictions.
2. Whether the admission of photographs of the victim in the present case and of the victim of Odom's prior murder conviction was proper.
3. Whether the trial court abused its discretion or violated due process and the right to effective counsel by denying a continuance for psychiatric and neuropsychological testing.
4. Whether the death sentence was invalid because the indictment did not charge the aggravating circumstance.
5. Whether the court was required at that stage to conduct the statutory excessiveness, arbitrariness, or proportionality review under Tennessee Code Annotated section 39-13-206(c)(1)(A)-(D).

HOLDINGS

1. The trial court committed reversible error by applying the 1998 amendment retroactively to a 1991 offense and permitting extensive evidence concerning the facts and circumstances of Odom's prior felonies to support the prior-violent-felony aggravating circumstance.
2. The error was not harmless because the State introduced extensive, graphic evidence about the prior felonies and relied heavily on that evidence to urge the jury to impose death.
3. The trial court properly admitted two photographs of Mina Ethel Johnson but erred in admitting the photograph of the victim of Odom's prior murder conviction.
4. The trial court did not abuse its discretion or violate Odom's due process or effective-assistance rights by denying a further continuance.
5. The death sentence was not invalid merely because the indictment did not charge the aggravating circumstance.
6. The court did not need to address whether the death penalty was excessive, arbitrary, or disproportionate at that time.

KEY QUOTATIONS

“In sum, had the legislature intended to depart from the long- established rule that statutes are presumed to apply prospectively, it could have so indicated.” (at -9)

“In short, the 1998 amendment fits within categories four and five of Miller.” (at -10)

“Accordingly, the trial court’s erroneous application of the 1998 amendment led directly to the prosecution’s introduction of detailed and graphic evidence of prior violent felonies committed by the defendant.” (at -16)

FACTUAL BACKGROUND

Richard Odom was convicted of felony murder for raping and killing seventy-seven-year-old Mina Ethel Johnson in Memphis in 1991. At resentencing, the State relied on the statutory aggravator that Odom had prior felony convictions involving violence to the person and introduced detailed evidence about his prior robbery and murder convictions, including graphic evidence concerning the prior murder. The defense presented mitigation evidence concerning Odom's abusive childhood, psychological history, and alleged low serotonin levels.

PROCEDURAL HISTORY

Odom was convicted of felony murder and sentenced to death in 1992. The Tennessee Supreme Court affirmed the conviction but remanded for a new sentencing proceeding because mitigation evidence had been improperly excluded and the jury had not been instructed on nonstatutory mitigating factors. After resentencing, a jury again imposed the death penalty based on the prior-violent-felony aggravating circumstance, and the Court of Criminal Appeals affirmed. The Tennessee Supreme Court reversed and remanded for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court for a new sentencing proceeding conducted under the law in effect when the 1991 offense was committed.

CASES CITED

- State v. Odom, 928 S.W.2d 18 (Tenn. 1996)
- State v. Powers, 101 S.W.3d 383 (Tenn. 2003)
- State v. Bigbee, 885 S.W.2d 797 (Tenn. 1994)
- State v. Stout, 46 S.W.3d 689 (Tenn. 2001)
- State v. Chalmers, 28 S.W.3d 913 (Tenn. 2000)
- State v. Howell, 868 S.W.2d 238 (Tenn. 1993)
- State v. Smith, 893 S.W.2d 908 (Tenn. 1994)
- State v. Cauthern, 967 S.W.2d 726 (Tenn. 1998)
- State v. Bush, 942 S.W.2d 489 (Tenn. 1997)
- State v. Hutchison, 898 S.W.2d 161 (Tenn. 1994)
- State v. Cazes, 875 S.W.2d 253 (Tenn. 1994)
- State v. Brimmer, 876 S.W.2d 75 (Tenn. 1994)
- State v. Pike, 978 S.W.2d 904 (Tenn. 1998)
- Miller v. State, 584 S.W.2d 758 (Tenn. 1979)
- State v. Carter, 114 S.W.3d 895 (Tenn. 2003)
- State v. Teague, 680 S.W.2d 785 (Tenn. 1984)

- State v. Morris, 24 S.W.3d 788 (Tenn. 2000)
- State v. Vann, 976 S.W.2d 93 (Tenn. 1998)
- State v. Hines, 919 S.W.2d 573 (Tenn. 1995)
- State v. Mann, 959 S.W.2d 503 (Tenn. 1997)
- Morris v. Slappy, 461 U.S. 1 (1983)
- State v. Holton, 126 S.W.3d 845 (Tenn. 2004)
- State v. Dellinger, 79 S.W.3d 458 (Tenn. 2002)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Monge v. California, 524 U.S. 721 (1998)

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