

SUPREME COURT OF MINNESOTA

State of Minnesota v. Gregory Antoine Davis

864 N.W.2d 171 (Minn. 2015) · No. A13-1863 · Decided June 3, 2015

SUMMARY

The Minnesota Supreme Court affirmed Gregory Antoine Davis’s convictions for first-degree felony murder and unlawful possession of a firearm. The court held that an erroneous burglary jury instruction did not substantially affect the verdict, that an instruction regarding consideration of lesser offenses was not plain error, and that the district court properly excluded certain alternative-perpetrator evidence. The court also held that the trial could proceed during Davis’s voluntary absences from portions of the proceedings.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Wright, J.
JURISDICTION	Minnesota
DECIDED	June 3, 2015
DOCKET	A13-1863
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for first-degree felony murder and unlawful possession of a firearm following a jury trial.
STANDARD OF REVIEW	Unobjected-to jury-instruction claims and the alleged violation of the defendant’s presence under Minn. R. Crim. P. 26.03 were reviewed for plain error. Statutory and procedural-rule interpretation were reviewed de novo. Evidentiary rulings were reviewed for abuse of discretion, with reversal warranted only upon resulting prejudice.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Gregory Antoine Davis v. State of Minnesota

TOPICS

[jury instructions](#)[criminal procedure](#)[lesser included offense instructions](#)[evidence](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court plainly erred by failing to define theft in its burglary instruction.
2. Whether the district court plainly erred by instructing the jury that burglary could be established if the defendant entered without consent and intended to commit or committed a theft while in the building.
3. Whether the district court plainly erred by suggesting that the jury should consider the greater offense before lesser-included offenses.
4. Whether the district court abused its discretion by excluding reverse-Spreigl evidence and hearsay concerning the alleged alternative perpetrator.
5. Whether the district court violated Minn. R. Crim. P. 26.03 by proceeding with portions of the trial while Davis was absent from the courtroom.

HOLDINGS

1. The district court did not err, much less commit reversible plain error, by failing to define theft or steal in the burglary instruction because the omission did not mislead the jury or permit speculation about the element.
2. The district court's instruction was erroneous because burglary requires intent to steal at the time of entry when the defendant does not commit a felony or gross misdemeanor in the building, but the error did not affect Davis's substantial rights and therefore was not reversible plain error.
3. The district court erred by instructing the jury that it need not consider lesser offenses, because the instruction reasonably could suggest that the jury should consider the most serious charge first; however, the error was not plain because existing precedent had not clearly established that the instruction, standing alone, was erroneous.
4. The district court did not abuse its discretion by excluding evidence of the alleged alternative perpetrator's prior assaults and Jones's statement that D.M. had choked her because the assault evidence was not sufficiently similar or temporally proximate to the charged murder and the statement lacked adequate circumstantial guarantees of trustworthiness.
5. Minn. R. Crim. P. 26.03 permits a district court to proceed with a felony trial without the defendant when the defendant is absent without justification after trial begins, and the district court properly applied that provision after warning Davis of the consequences of refusing to attend.

KEY QUOTATIONS

"This language requires the offender to possess the intent to steal at the time of entry when the offender does not commit a felony or gross misdemeanor while in the building." (at 10)

"The only reasonable interpretation of the rule is that a district court, even in a felony case, may proceed without the defendant present under the circumstances listed in subdivision 1(2)." (at 19)

FACTUAL BACKGROUND

Brianna Jones was shot and killed in the lower-level unit of a Minneapolis duplex, and jewelry, electronics, luggage, and a firearm belonging to Jones's boyfriend, D.M., were missing. Investigators found several stolen items and D.M.'s firearm, which was determined to be the murder weapon, in Davis's apartment. Davis later told investigators that he had been asked to help with a burglary and characterized the incident as a burglary that went bad. At trial, Davis primarily asserted an alternative-perpetrator defense implicating D.M., and secondarily claimed that the taking of property was temporary and authorized.

PROCEDURAL HISTORY

A Hennepin County district court jury found Davis guilty of first-degree felony murder and unlawful possession of a firearm. The district court adjudged him guilty and sentenced him to life in prison with the possibility of release. Davis appealed, asserting instructional errors, improper exclusion of alternative-perpetrator evidence, and violation of his right to be present during portions of trial.

DISPOSITION

affirmed

CASES CITED

- State v. Koskela, 536 N.W.2d 625, 629 (Minn. 1995)
- State v. LaForge, 347 N.W.2d 247, 251 (Minn. 1984)
- State v. Griller, 583 N.W.2d 736, 740 (Minn. 1998)
- State v. Kelley, 855 N.W.2d 269, 274 (Minn. 2014)
- State v. Crowsbreast, 629 N.W.2d 433, 437 (Minn. 2001)
- Gulbertson v. State, 843 N.W.2d 240, 247 (Minn. 2014)
- State v. Carridine, 812 N.W.2d 130, 142 (Minn. 2012)
- State v. Kuhnau, 622 N.W.2d 552, 556 (Minn. 2001)
- State v. Vang, 847 N.W.2d 248, 261 (Minn. 2014)
- State v. Pendleton, 567 N.W.2d 265, 270 (Minn. 1997)
- State v. Vance, 734 N.W.2d 650, 656-57 (Minn. 2007)
- State v. Baird, 654 N.W.2d 105, 113 (Minn. 2002)
- State v. Prtine, 784 N.W.2d 303, 316-17 (Minn. 2010)
- State v. Dahlstrom, 276 Minn. 301, 311, 150 N.W.2d 53, 61 (1967)
- State v. Graham, 764 N.W.2d 340, 351 (Minn. 2009)
- State v. Amos, 658 N.W.2d 201, 203 (Minn. 2003)
- State v. Atkinson, 774 N.W.2d 584, 589 (Minn. 2009)
- State v. Larson, 787 N.W.2d 592, 597 (Minn. 2010)
- State v. Jones, 678 N.W.2d 1, 16-17 (Minn. 2004)
- State v. Miller, 754 N.W.2d 686, 700 (Minn. 2008)
- State v. Scanlon, 719 N.W.2d 674, 684 (Minn. 2006)

- State v. Blom, 682 N.W.2d 578, 621 (Minn. 2004)
- State v. Swaney, 787 N.W.2d 541, 558-59 (Minn. 2010)
- State v. Robinson, 718 N.W.2d 400, 408 (Minn. 2006)
- State v. Lanam, 459 N.W.2d 656, 661 (Minn. 1990)
- State v. Mosley, 853 N.W.2d 789, 797 (Minn. 2014)
- State v. Dahlin, 753 N.W.2d 300, 305-06 (Minn. 2008)
- American Family Insurance Group v. Schroedl, 616 N.W.2d 273, 277 (Minn. 2000)
- State v. Worthy, 583 N.W.2d 270, 277-78 (Minn. 1998)

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