

SUPREME COURT OF KANSAS

State v. Hilyard

State v. Hilyard · No. No. 123,323 · Decided August 19, 2022

SUMMARY

The Kansas Supreme Court affirmed Rachael Hilyard’s conviction for first-degree premeditated murder and her hard-50 sentence. The court held that sufficient circumstantial evidence supported premeditation, the jury instructions were legally and factually adequate, and Hilyard’s ineffective-assistance claim was not preserved for review. The court also addressed prosecutorial-error and mental-examination issues, as reflected in the syllabus.

CASE DETAILS

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| COURT                 | Supreme Court of Kansas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Wilson, J.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Kansas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DECIDED               | August 19, 2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 123,323                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Direct appeal from a conviction for first-degree premeditated murder and a hard-50 life sentence.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| STANDARD OF REVIEW    | Sufficiency of the evidence is reviewed by viewing all evidence in the light most favorable to the prosecution and determining whether a rational factfinder could have found guilt beyond a reasonable doubt; the appellate court does not reweigh evidence or assess credibility. Jury-instruction challenges are reviewed under a three-step framework, with unpreserved claims reviewed for clear error. Prosecutorial-error claims are reviewed under a two-step error-and-prejudice analysis, with prejudice assessed under the constitutional harmlessness standard. A district court’s decision whether to order a presentencing mental evaluation is reviewed for abuse of discretion. Unpreserved issues are generally not reviewed, subject to recognized discretionary exceptions. |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PARTIES               | Rachael C. Hilyard v. State of Kansas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## TOPICS

criminal procedure

jury instructions

standard of review

ineffective assistance

sentencing

## PRACTICE AREAS

criminal law

criminal procedure

appellate law

evidence

constitutional law

## QUESTIONS PRESENTED

1. Whether sufficient evidence supported the jury's finding of premeditation.
2. Whether the district court clearly erred by failing to give additional language distinguishing premeditation from intent.
3. Whether Hilyard's ineffective-assistance claim based on counsel's guilt-based defense could be resolved on direct appeal or required a remand for an evidentiary hearing.
4. Whether the prosecutor misstated the law, shifted the burden of proof, or improperly commented on witness credibility during closing argument.
5. Whether the district court abused its discretion by failing to order a presentencing mental examination under K.S.A. 2021 Supp. 22-3429.

## HOLDINGS

1. The evidence was sufficient to support the jury's finding of premeditation. Premeditation may be proved by reasonable inferences from circumstantial evidence, and the evidence need not exclude every other reasonable conclusion.
2. The district court did not err by giving the standard PIK instruction on premeditation without Hilyard's proposed additional language. The standard instruction fairly and accurately stated the law and was not reasonably likely to mislead the jury under the facts.
3. A defendant must consent to a guilt-based defense, but consent need not be memorialized on the record. Hilyard's ineffective-assistance claim was not preserved for direct appeal, and the court would not sua sponte remand for a Van Cleave evidentiary hearing because Hilyard did not request one.
4. The prosecutor did not shift the burden of proof, misstate the law, or improperly offer a personal opinion on witness credibility by stating that a lesser offense could apply if the jury believed Hilyard did not know Davis was alive and by discussing evidence bearing on witness credibility.
5. K.S.A. 2021 Supp. 22-3429 imposes no affirmative duty on a sentencing court to raise the issue of a mental evaluation sua sponte. Whether to order an evaluation is discretionary, and the district court did not abuse its discretion.

## KEY QUOTATIONS

*“Premeditation may be shown by circumstantial evidence, provided inferences from that evidence are reasonable.”* (1)

*“A defendant must consent to the use of a guilt-based defense, but that consent need not be on the record.”* (1)

*“K.S.A. 2021 Supp. 22-3429 imposes no affirmative duty for courts to raise the issue of whether to order a mental examination.” (1)*

*“There was sufficient evidence to support the jury's finding of premeditation, no jury instruction error, and no prosecutorial error.” (27)*

## FACTUAL BACKGROUND

Rachael Hilyard fought with Micki Davis at Hilyard's home after Davis arrived to retrieve belongings. Hilyard attacked Davis, later returned to the garage with a knife, and severed Davis's head while physical and forensic evidence indicated Davis was likely still alive. Hilyard admitted killing Davis but claimed there was no premeditation and testified that she believed Davis might get back up and that voices or "things" told her to free Davis's soul. The jury convicted Hilyard of first-degree premeditated murder.

## PROCEDURAL HISTORY

Hilyard was charged with first-degree premeditated murder after killing Davis. She was initially found incompetent to stand trial, received treatment at Larned State Security Hospital, and was later found competent. After a jury convicted her of first-degree premeditated murder, the Sedgwick County District Court imposed a life sentence with no possibility of parole for 50 years. Hilyard appealed, challenging the sufficiency of the evidence, jury instructions, counsel's guilt-based defense, prosecutorial argument, and the failure to order a mental evaluation.

## DISPOSITION

affirmed

## CASES CITED

- State v. Farmer, 285 Kan. 541, 545, 175 P.3d 221 (2008)
- State v. Gonzalez, 307 Kan. 575, 586, 412 P.3d 968 (2018)
- State v. Scott, 271 Kan. 103, 108, 21 P.3d 516 (2001)
- State v. Kettler, 299 Kan. 448, 467, 325 P.3d 1075 (2014)
- State v. Scaife, 286 Kan. 614, 617-18, 186 P.3d 755 (2008)
- State v. Cook, 286 Kan. 1098, 1102, 191 P.3d 294 (2008)
- State v. Logsdon, 304 Kan. 3, 25, 371 P.3d 836 (2016)
- State v. Shields, 315 Kan. 814, 819-21, 511 P.3d 931 (2022)
- State v. Ross, 310 Kan. 216, 223, 445 P.3d 726 (2019)
- State v. Stanley, 312 Kan. 557, 565, 569, 574, 478 P.3d 324 (2020)
- State v. Bernhardt, 304 Kan. 460, 470, 372 P.3d 1161 (2016)
- State v. McDaniel, 306 Kan. 595, 615, 395 P.3d 429 (2017)
- State v. Uk, 311 Kan. 393, 401-02, 461 P.3d 32 (2020)
- State v. Bodine, 313 Kan. 378, 386, 486 P.3d 551 (2021)

- State v. Carter, 270 Kan. 426, 440, 14 P.3d 1138 (2000)
- State v. Van Cleave, 239 Kan. 117, 120, 716 P.2d 580 (1986)
- State v. Dull, 298 Kan. 832, 839-40, 317 P.3d 104 (2014)
- State v. Levy, 292 Kan. 379, 253 P.3d 341 (2011)
- Laymon v. State, 280 Kan. 430, 444, 122 P.3d 326 (2005)
- State v. Blevins, 313 Kan. 413, 428, 485 P.3d 1175 (2021)
- State v. Sherman, 305 Kan. 88, 109, 378 P.3d 1060 (2016)
- State v. Ward, 292 Kan. 541, Syl. ¶ 6, 256 P.3d 801 (2011)
- State v. Watson, 313 Kan. 170, 176-77, 484 P.3d 877 (2021)
- State v. Williams, 299 Kan. 911, 935-37, 329 P.3d 400 (2014)
- State v. Perkins, 310 Kan. 764, 768, 449 P.3d 756 (2019)
- State v. Godfrey, 301 Kan. 1041, 1043, 350 P.3d 1068 (2015)
- State v. Evans, 313 Kan. 972, 992-93, 492 P.3d 418 (2021)