

SUPREME COURT OF FLORIDA

Terence Tobias Oliver v. State of Florida

214 So. 3d 606 (Fla. 2017) · No. SC12-1350 · Decided April 6, 2017

SUMMARY

The Supreme Court of Florida reviewed Terence Tobias Oliver’s convictions for two first-degree murders and his two death sentences. The court rejected challenges concerning admission of shotgun evidence, prosecutorial argument regarding remorse, the cold, calculated, and premeditated aggravator, and Florida’s capital sentencing scheme after *Hurst v. Florida*. The court affirmed the judgments of conviction and sentences of death.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Lewis, J.; Pariente, J.; Quince, J.; Canady, J.; Polston, J.; Lawson, J.
JURISDICTION	Florida
DECIDED	April 6, 2017
DOCKET	SC12-1350
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for two counts of first-degree murder, armed burglary of a dwelling with discharge of a firearm causing death, and possession of a firearm by a convicted felon, and from two death sentences. The Florida Supreme Court conducted automatic review of the capital convictions and sentences.
STANDARD OF REVIEW	The admission of evidence was reviewed for abuse of discretion. The denial of the motion for mistrial was reviewed for abuse of discretion because the trial court did not rule on the underlying objection. The sufficiency of the evidence was reviewed by determining whether competent, substantial evidence supported the convictions and whether a rational trier of fact could find the elements beyond a reasonable doubt. <i>Hurst</i> error and other sentencing errors were reviewed for harmlessness beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Terence Tobias Oliver v. State of Florida

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by admitting evidence and allowing the jury to view a shotgun that was not the murder weapon.
2. Whether the trial court erred in denying Oliver's motion for mistrial after the prosecutor argued that Oliver had not demonstrated remorse.
3. Whether competent, substantial evidence supported the cold, calculated, and premeditated aggravator for Richardson's murder.
4. Whether any *Hurst v. Florida* error in the penalty phase was harmless beyond a reasonable doubt.
5. Whether sufficient evidence supported the first-degree murder convictions.
6. Whether the death sentences were proportionate.

HOLDINGS

1. The trial court did not abuse its discretion in admitting testimony concerning the shotgun or admitting the shotgun into evidence because the evidence was relevant to explain how Oliver obtained and disposed of the murder weapon, supported an inference of consciousness of guilt, and was not unfairly prejudicial.
2. The trial court did not abuse its discretion in denying Oliver's motion for mistrial.
3. Competent, substantial evidence supported the trial court's finding that Richardson's murder was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
4. Any *Hurst* error in Oliver's penalty phase was harmless beyond a reasonable doubt, and Oliver was not entitled to a new penalty phase.
5. The convictions for first-degree murder were supported by competent, substantial evidence.
6. Oliver's death sentences were proportionate when compared with other capital cases and considering the totality of the aggravating and mitigating circumstances.

KEY QUOTATIONS

“Evidence that a suspected person in any manner endeavors to evade a threatened prosecution by any ex post facto indication of a desire to evade prosecution is admissible against the accused where the relevance of such evidence is based on consciousness of guilt inferred from such actions.” (214 So. 3d at 614)

“The Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death. A jury’s mere recommendation is not enough.” (214 So. 3d at 617)

“It is not a comparison between the number of aggravating and mitigating circumstances.” (214 So. 3d at 621)

FACTUAL BACKGROUND

Oliver was convicted of killing Krystal Pinson and Andrea Richardson by shooting them inside Richardson's home on July 22, 2009. Before the killings, Oliver was concerned that Pinson was cooperating with police regarding an outstanding warrant and told a mechanic that Pinson was going to make him do something to her. After the murders, Oliver obtained the handgun used in the killings, disposed of it in a lake, fled, used a disguise, and later confessed to the killings to Sheena Camiscioli. The trial evidence included eyewitness testimony, physical and ballistics evidence, DNA evidence, and evidence that Oliver entered Richardson's home without permission and shot both victims.

PROCEDURAL HISTORY

A Brevard County jury found Oliver guilty of two counts of first-degree murder and armed burglary, and the trial court found him guilty of possession of a firearm by a convicted felon. The trial court imposed two death sentences, life imprisonment without parole for the burglary conviction, and five years for possession of a firearm by a convicted felon. On direct appeal, the Florida Supreme Court affirmed the convictions and sentences, including after considering the effect of *Hurst v. Florida*.

DISPOSITION

affirmed

CASES CITED

- *Wright v. State*, 19 So. 3d 277, 291, 293-94 (Fla. 2009)
- *State v. Taylor*, 648 So. 2d 701, 704 (Fla. 1995)
- *Heath v. State*, 648 So. 2d 660, 664 (Fla. 1994)
- *Sireci v. State*, 399 So. 2d 964, 968 (Fla. 1981)
- *Pope v. State*, 441 So. 2d 1073, 1077-78 (Fla. 1983)
- *Gosciminski v. State*, 132 So. 3d 678, 694 (Fla. 2013)
- *Silvia v. State*, 60 So. 3d 959, 976 (Fla. 2011)
- *England v. State*, 940 So. 2d 389, 401-02 (Fla. 2006)
- *Tanzi v. State*, 964 So. 2d 106, 114-15 (Fla. 2007)
- *Singleton v. State*, 783 So. 2d 970, 978 (Fla. 2001)
- *Derrick v. State*, 581 So. 2d 31, 36 (Fla. 1991)
- *Bright v. State*, 90 So. 3d 249, 259 (Fla. 2012)
- *Poole v. State*, 997 So. 2d 382, 391 n.3 (Fla. 2008)
- *Dessaure v. State*, 891 So. 2d 455, 465 n.5 (Fla. 2004)
- *Delhall v. State*, 95 So. 3d 134, 169 (Fla. 2012)

- Kilgore v. State, 55 So. 3d 487, 513 (Fla. 2010)
- Doorbal v. State, 837 So. 2d 940, 961 (Fla. 2003)
- Bell v. State, 699 So. 2d 674, 677-78 (Fla. 1997)
- Diaz v. State, 860 So. 2d 960, 969 (Fla. 2003)
- Howell v. State, 707 So. 2d 674, 682 (Fla. 1998)
- Sweet v. State, 624 So. 2d 1138, 1142 (Fla. 1993)
- Provenzano v. State, 497 So. 2d 1177, 1183 (Fla. 1986)
- Hurst v. Florida, 136 S. Ct. 616, 619, 621 (2016)
- Hurst v. State, 202 So. 3d 40, 44, 68 (Fla. 2016)
- Davis v. State, 207 So. 3d 142, 174-75 (Fla. 2016)
- State v. DiGuilio, 491 So. 2d 1129, 1139 (Fla. 1986)
- Phillips v. State, 39 So. 3d 296, 308 (Fla. 2010)
- Rodgers v. State, 948 So. 2d 655, 674 (Fla. 2006)
- Bradley v. State, 787 So. 2d 732, 738 (Fla. 2001)
- Woods v. State, 733 So. 2d 980, 985 (Fla. 1999)
- Norton v. State, 709 So. 2d 87, 92 (Fla. 1997)
- Crain v. State, 894 So. 2d 59, 73 (Fla. 2004)
- Miller v. State, 42 So. 3d 204, 229 (Fla. 2010)
- Floyd v. State, 913 So. 2d 564, 578 (Fla. 2005)
- Anderson v. State, 841 So. 2d 390, 407-08 (Fla. 2003)
- Tillman v. State, 591 So. 2d 167, 169 (Fla. 1991)
- Porter v. State, 564 So. 2d 1060, 1064 (Fla. 1990)
- Blackwood v. State, 777 So. 2d 399, 403, 405, 412-13 (Fla. 2000)
- Mansfield v. State, 758 So. 2d 636, 642, 647 (Fla. 2000)
- Davis v. State, 703 So. 2d 1055, 1061-62 (Fla. 1997)
- Gerald v. State, 674 So. 2d 96, 98, 105 (Fla. 1996)

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