

SUPREME COURT OF WISCONSIN

State v. Manuel

2005 WI 75, 281 Wis. 2d 554, 697 N.W.2d 811 · No. 2003AP113-CR · Decided June 10, 2005

SUMMARY

The Supreme Court of Wisconsin affirmed Antwan B. Manuel’s convictions, including attempted first-degree homicide. The court held that a witness’s statements to his girlfriend were admissible under Wisconsin’s statement-of-recent-perception hearsay exception and were nontestimonial under Crawford v. Washington. Applying Ohio v. Roberts to the nontestimonial statements, the court concluded that their admission did not violate Manuel’s confrontation rights and that trial counsel was not ineffective for failing to impeach the witness with prior convictions.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Louis B. Butler, Jr.
JURISDICTION	Wisconsin
DECIDED	June 10, 2005
DOCKET	2003AP113-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Antwan Manuel sought review of a published Wisconsin Court of Appeals decision affirming his convictions. The Wisconsin Supreme Court granted review and affirmed.
STANDARD OF REVIEW	Admission of evidence is reviewed for an erroneous exercise of discretion. Confrontation Clause issues are reviewed de novo. Ineffective-assistance claims present mixed questions of fact and law: historical facts are upheld unless clearly erroneous, while deficient performance and prejudice are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Antwan B. Manuel v. State of Wisconsin

TOPICS

hearsay

evidence

sixth amendment

ineffective assistance

criminal procedure

PRACTICE AREAS

criminal law

evidence

constitutional criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Stamps's statements to Rhodes were admissible under Wisconsin's statement-of-recent-perception hearsay exception.
2. Whether admission of the statements violated Manuel's confrontation rights under the Sixth Amendment and Article I, section 7 of the Wisconsin Constitution.
3. Whether nontestimonial hearsay remains subject to Confrontation Clause scrutiny under *Ohio v. Roberts* after *Crawford v. Washington*.
4. Whether trial counsel was ineffective for failing to impeach Stamps with the number of his prior convictions.

HOLDINGS

1. The trial court did not erroneously exercise its discretion by admitting Stamps's statements under Wis. Stat. § 908.045(2).
2. Stamps's statements to Rhodes were nontestimonial under each of the three formulations identified in *Crawford v. Washington*.
3. Nontestimonial hearsay remains subject to Confrontation Clause scrutiny, and *Ohio v. Roberts* is retained as the governing test for such statements under the federal and Wisconsin constitutions.
4. The statement-of-recent-perception exception is not firmly rooted, but Stamps's statements were admissible because they contained particularized guarantees of trustworthiness.
5. Trial counsel was deficient for failing to impeach Stamps with his four prior convictions, but Manuel was not prejudiced and therefore did not establish ineffective assistance of counsel.

KEY QUOTATIONS

"Therefore, we join the jurisdictions that have used Roberts to assess nontestimonial statements." (586-587)

"We therefore affirm the decision of the court of appeals." (594)

FACTUAL BACKGROUND

Antwan Manuel allegedly shot Prentiss Adams in the neck while Adams was sitting in his vehicle and speaking with Derrick Stamps. Shortly afterward, Stamps told his girlfriend, Anna Rhodes, that he had been present when Manuel shot Adams and described aspects of the incident. At trial, Stamps invoked his Fifth Amendment privilege and Rhodes claimed she could not remember the statements, so the State introduced them through the arresting officer. The jury convicted Manuel, and the evidence also included Adams's identification of Manuel and footwear evidence linking shoes in Manuel's vehicle to impressions at the crime scene.

PROCEDURAL HISTORY

A Dane County Circuit Court admitted statements made by codefendant or witness Derrick Stamps to his girlfriend under Wisconsin's statement-of-recent-perception hearsay exception and entered convictions against Manuel on attempted first-degree homicide and related offenses. The circuit court denied Manuel's posttrial motion asserting evidentiary, confrontation, and ineffective-assistance claims. The Wisconsin Court of Appeals affirmed, and the Wisconsin Supreme Court affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- State v. Manuel, 2004 WI App 111, 275 Wis. 2d 146, 685 N.W.2d 525
- Crawford v. Washington, 541 U.S. 36 (2004)
- Ohio v. Roberts, 448 U.S. 56 (1980)
- State v. Weed, 2003 WI 85, 263 Wis. 2d 434, 666 N.W.2d 485
- State v. Pharr, 115 Wis. 2d 334, 340 N.W.2d 498 (1983)
- State v. Stinson, 134 Wis. 2d 224, 397 N.W.2d 136 (Ct. App. 1986)
- Martindale v. Ripp, 2001 WI 113, 246 Wis. 2d 67, 629 N.W.2d 698
- McCleary v. State, 49 Wis. 2d 263, 182 N.W.2d 512 (1971)
- State v. Hale, 2005 WI 7, 277 Wis. 2d 593, 691 N.W.2d 637
- Lilly v. Virginia, 527 U.S. 116, 126 (1999)
- Idaho v. Wright, 497 U.S. 805, 819-21 (1990)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Thiel, 2003 WI 111, 264 Wis. 2d 571, 665 N.W.2d 305
- State v. Gary M.B., 2004 WI 33, 270 Wis. 2d 62, 676 N.W.2d 475
- State v. Trawitzki, 2001 WI 77, 244 Wis. 2d 523, 628 N.W.2d 801