

SUPREME COURT OF VERMONT

State v. Brewer

2010 VT 110 (2010) · No. 2009-390 · Decided December 14, 2010

SUMMARY

The Supreme Court of Vermont affirmed William Brewer's conviction for first-degree aggravated domestic assault. The court held that the trial court did not abuse its discretion under Vermont Rule of Evidence 609 by ruling that Brewer's prior obstruction-of-justice conviction could be used to impeach him if he testified, particularly because he did not testify or make an offer of proof regarding his proposed testimony.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Paul L. Reiber, Chief Justice; John A. Dooley, Associate Justice; Denise R. Johnson, Associate Justice; Marilyn S. Skoglund, Associate Justice; Brian L. Burgess, Associate Justice
JURISDICTION	Vermont
DECIDED	December 14, 2010
DOCKET	2009-390
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his conviction for first-degree aggravated domestic assault, challenging the trial court's pretrial ruling that the State could use his prior obstruction-of-justice conviction for impeachment if he testified.
STANDARD OF REVIEW	The court reviews a trial court's grant of a pretrial evidentiary motion for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	William Brewer, Jr. v. State of Vermont

TOPICS

- impeachment
- evidence
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion under Vermont Rule of Evidence 609 by ruling that Brewer's prior obstruction-of-justice conviction could be used to impeach him if he testified.
2. Whether the trial court was required to address alternative methods of impeachment before making its conditional pretrial ruling.

HOLDINGS

1. The trial court did not abuse its discretion in ruling that Brewer's prior obstruction-of-justice conviction could be admitted for impeachment if he testified. The conviction was a qualifying felony, was sufficiently related to credibility, was unrelated to the charged domestic-violence offense, and the court appropriately limited the State to that one prior conviction.
2. The trial court did not abuse its discretion by failing to address alternative methods of impeachment in greater detail because Brewer made no offer of proof concerning his proposed testimony and did not renew a specific objection during trial or before resting.

KEY QUOTATIONS

"The trial court must assess probative value and prejudice in accordance with the factors set forth in State v. Gardner." (¶ 7)

"Defendant chose not to testify—as was his constitutional right—and made no offer of proof as to what his testimony might have been nor how admission of his prior conviction would have hurt that testimony." (¶ 10)

FACTUAL BACKGROUND

Police responded to a domestic-violence 9-1-1 call at the apartment shared by Brewer and his then-girlfriend. The complainant had red marks on her neck and alleged that Brewer had choked her, while Brewer appeared visibly intoxicated and was yelling. Before trial, the court ruled that Brewer's prior obstruction-of-justice conviction could be used to impeach him if he testified, but excluded most of the State's other proposed prior convictions. Brewer did not testify, and the jury convicted him of first-degree aggravated domestic assault.

PROCEDURAL HISTORY

Brewer was charged with unlawful restraint, first-degree aggravated domestic assault, and first-degree aggravated domestic assault with a weapon. The State dismissed the unlawful-restraint and aggravated-assault-with-a-weapon charges, and a jury convicted Brewer of first-degree aggravated domestic assault. The Supreme Court of Vermont affirmed the conviction.

DISPOSITION

affirmed

CASES CITED

- Luce v. United States, 469 U.S. 38 (1984)
- State v. Martin, 2007 VT 96, ¶¶ 47-48, 182 Vt. 377, 944 A.2d 867
- State v. Setien, 173 Vt. 576, 577-78, 795 A.2d 1135, 1138-39 (2002) (mem.)
- State v. Gardner, 139 Vt. 456, 460-61, 433 A.2d 249, 251-52 (1981)
- State v. Ashley, 160 Vt. 125, 127-28, 623 A.2d 984, 986 (1993)
- State v. Koveos, 169 Vt. 62, 71, 732 A.2d 722, 728 (1999)

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