

SUPREME COURT OF MISSOURI

State v. Coutts

133 S.W.3d 52 (Mo. banc 2004) · No. SC 85556 · Decided April 27, 2004

SUMMARY

The Supreme Court of Missouri affirmed John D. Coutts's convictions for second-degree murder and armed criminal action. The court held that Missouri's armed criminal action statute did not bar the conviction because the predicate felony was unlawful use of a weapon by shooting into a dwelling, a type of offense not listed in the statute's exception for predicate felonies.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Laura Denvir Stith
JURISDICTION	Missouri
DECIDED	April 27, 2004
DOCKET	SC 85556
DISPOSITION	affirmed
PROCEDURAL POSTURE	Coutts was convicted by a jury of second-degree murder and armed criminal action and received consecutive life sentences. After an opinion by the Missouri Court of Appeals, Western District, the Supreme Court of Missouri granted transfer. On appeal, Coutts argued that the armed-criminal-action conviction violated double jeopardy and section 571.015.4.
STANDARD OF REVIEW	Plain-error review under Missouri Rule 30.20 because Coutts did not raise the double-jeopardy claim at the earliest time consistent with orderly procedure. Relief requires a showing that the alleged error resulted in manifest injustice or a miscarriage of justice.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Missouri, decided en banc.
PARTIES	John D. Coutts v. State of Missouri

TOPICS

- double jeopardy
- criminal procedure
- statutory interpretation
- appellate procedure
- fifth amendment

PRACTICE AREAS

Criminal law

Criminal procedure

Constitutional law

Appellate practice

QUESTIONS PRESENTED

1. Whether section 571.015.4 prohibited Coutts's armed-criminal-action conviction when the predicate second-degree murder was itself based on unlawful use of a weapon by shooting into a dwelling under section 571.030.1(3).
2. Whether cumulative punishment for second-degree murder and armed criminal action in these circumstances violated the Double Jeopardy Clause of the Fifth Amendment or Missouri Constitution article I, section 19.
3. Whether the alleged constitutional error warranted plain-error relief despite Coutts's failure to preserve the claim.

HOLDINGS

1. Section 571.015.4 does not prohibit an armed-criminal-action conviction predicated on second-degree murder when the murder is based on unlawful use of a weapon by shooting into a dwelling under section 571.030.1(3), because that offense and its predecessor were not among the felonies enumerated in section 571.015.4.
2. Cumulative convictions and sentences for armed criminal action and the underlying offenses did not violate general double-jeopardy principles because the Missouri legislature specifically authorized cumulative punishment except for the offenses listed in section 571.015.4, and shooting into a dwelling was not among those exclusions.
3. Coutts's claim under article I, section 19 of the Missouri Constitution failed because that provision, as quoted by the court, addresses being placed in jeopardy after acquittal by a jury, and Coutts had never been acquitted.

KEY QUOTATIONS

"[T]he rule is clearly established that in order to preserve a constitutional issue for appellate review, it must be raised at the earliest time consistent with good pleading and orderly procedure and must be kept alive during the course of the proceedings." (at 54)

"The legislature did not intend to preclude conviction of both armed criminal action and unlawful use of a weapon by shooting into a dwelling and, in fact, specifically intended to permit conviction and sentence for both offenses." (at 56)

FACTUAL BACKGROUND

Coutts and others gathered at his house before going to the Beck residence, where an argument and physical altercation had occurred. After Coutts and John Camacho left, they returned in Camacho's car, and Coutts fired several shots into the Beck home. Two bullets struck David Beck, who died from internal bleeding caused by one of the wounds.

PROCEDURAL HISTORY

The State charged Coutts with second-degree murder predicated on unlawful use of a weapon by shooting into a dwelling, and with armed criminal action predicated on the murder. The jury found him guilty on both counts, and the trial court sentenced him as a prior and persistent offender to two consecutive life terms. The Court of Appeals issued an opinion, after which the Supreme Court of Missouri granted transfer and affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Green v. Moore, 131 S.W.3d 803 (Mo. banc 2004)
- State v. Wickizer, 583 S.W.2d 519, 523 (Mo. banc 1979)
- Deck v. State, 68 S.W.3d 418, 424 (Mo. banc 2002)
- Ivy v. State, 81 S.W.3d 199, 201, 206-07 (Mo. App. W.D. 2002)
- State v. Davis, 849 S.W.2d 34, 36, 44 (Mo. App. W.D. 1993)
- State v. McKee, 826 S.W.2d 26, 27 (Mo. App. W.D. 1992)
- State v. Gottsman, 796 S.W.2d 27, 27, 30 n.5 (Mo. App. W.D. 1990)
- State v. King, 748 S.W.2d 47, 50 n.1 (Mo. App. E.D. 1988)
- Missouri v. Hunter, 459 U.S. 359, 368-69 (1983)
- Thummel v. King, 570 S.W.2d 679, 687 (Mo. banc 1978)
- State v. McTush, 827 S.W.2d 184, 186 (Mo. banc 1992)