

SUPREME COURT OF OHIO

State v. Sowell

2016-Ohio-8025 (Ohio 2016) · No. 2011-1921 · Decided December 8, 2016

SUMMARY

The Supreme Court of Ohio reviewed Anthony Sowell’s convictions and 11 death sentences for aggravated murder arising from the killings of 11 women in Cleveland. The court addressed courtroom closures during a suppression hearing and individual voir dire under the Sixth Amendment right to a public trial, concluding that the limited closures did not warrant relief. The court affirmed Sowell’s convictions and death sentences.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; Pfeifer, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Connor, C.J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	December 8, 2016
DOCKET	2011-1921
DISPOSITION	affirmed
PROCEDURAL POSTURE	As-of-right appeal from a capital criminal judgment of the Cuyahoga County Court of Common Pleas. Sowell challenged his convictions and eleven death sentences on multiple constitutional, statutory, evidentiary, jury-selection, indictment, ineffective-assistance, and death-penalty grounds.
STANDARD OF REVIEW	The court applied abuse-of-discretion review to the denial of a change of venue and rulings on challenges for cause, reviewed the courtroom-closure issue under the Sixth Amendment and Waller, applied plain-error review to the unpreserved unanimity-instruction claim, applied the Strickland standard to ineffective-assistance claims, and independently reviewed the aggravating circumstances, mitigating factors, and proportionality of the death sentences under R.C. 2929.05(A).
PRECEDENTIAL VALUE	published and precedential
PARTIES	Anthony Sowell v. The State of Ohio

TOPICS

criminal procedure

sixth amendment

jury selection

sentencing

appellate procedure

PRACTICE AREAS

criminal law

capital punishment

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QUESTIONS PRESENTED

1. Whether closure of the suppression hearing and individual voir dire violated Sowell's Sixth Amendment right to a public trial.
2. Whether prejudicial pretrial publicity required a change of venue.
3. Whether the trial court improperly restricted voir dire concerning mitigating factors and improperly denied challenges for cause, including death-qualification challenges.
4. Whether jurors could validly sign verdict forms using initials.
5. Whether victim-impact evidence was improperly admitted during the guilt phase.
6. Whether duplicative course-of-conduct specifications and alternative felony-murder specifications required reversal.
7. Whether the indictment's duplicate rape counts and omission of an allegation that aggravating circumstances outweighed mitigation violated due process.
8. Whether the trial court improperly excluded Sowell's unaccepted plea offer or refused requested mercy and presumption-of-life instructions.
9. Whether trial counsel rendered ineffective assistance by contesting guilt, failing to preserve alleged errors, or failing to object to indictment and evidentiary issues.
10. Whether the cumulative alleged errors deprived Sowell of a fair trial.
11. Whether Ohio's capital-sentencing procedures and proportionality review were unconstitutional.
12. Whether the aggravating circumstances outweighed the mitigating factors beyond a reasonable doubt and whether the death sentences were appropriate and proportionate.

HOLDINGS

1. The limited in-camera suppression hearing did not require reversal because the trial court identified an overriding interest, the closure was narrowly limited, no reasonable alternative would have protected the jury pool from prejudicial publicity, and any error could not have materially changed the parties' positions or the trial outcome.
2. Sowell could not challenge the closure of individual voir dire because the defense specifically requested that voir dire occur in chambers and in camera, thereby inviting the alleged error.
3. The trial court did not abuse its discretion by denying Sowell's motions for a change of venue because the publicity was not so pervasive that prejudice should be presumed and voir dire identified jurors capable of deciding the case impartially.

4. The terms 'signed' in Crim.R. 31(A) and R.C. 2945.171 are not limited to a juror's full name; a trial court may permit jurors to use initials as signatures when the initials are intended to authenticate the verdicts.
5. Although the indictment improperly included multiple duplicative course-of-conduct specifications, the error did not warrant reversal because the trial court merged the specifications and properly instructed the jury to consider them as one aggravating circumstance.
6. The trial court erred by failing to instruct the jury that it had to unanimously agree whether Sowell was the principal offender or acted with prior calculation and design, but the error was harmless under plain-error review because the jury separately and unanimously found prior calculation and design for each aggravated murder.
7. The indictment was constitutionally sufficient without alleging that the aggravating circumstances outweighed the mitigating factors because it tracked the applicable aggravated-murder and death-specification statutes and provided adequate notice.
8. The aggravating circumstances outweighed the mitigating factors beyond a reasonable doubt for each of the eleven murders, and the death sentences were appropriate and proportionate.

KEY QUOTATIONS

"We conclude that the term "signed," as used in Crim.R. 31(A) and R.C. 2945.171, is not limited to full signatures and that Crim.R. 31(B) will permit jurors to use their initials to sign verdict forms at the direction of a trial court in the exercise of its discretion." (§ 98)

"We conclude that as to each of the 11 murders in this case, the aggravating circumstances outweigh the mitigating factors beyond a reasonable doubt." (§ 202)

"Accordingly, we affirm Sowell's convictions and sentences of death." (§ 204)

FACTUAL BACKGROUND

Police investigating a rape complaint searched Sowell's Cleveland residence and discovered the bodies of multiple women, eventually locating ten bodies and the skull of an eleventh woman in or around the property. Evidence showed that several victims had been strangled, bound, sexually assaulted, or kidnapped, and five surviving victims testified about assaults by Sowell involving choking, rape, and attempted killing. The prosecution also presented evidence connecting Sowell to an alleged course of conduct involving the purposeful killing or attempted killing of multiple women.

PROCEDURAL HISTORY

A Cuyahoga County grand jury returned an 85-count indictment. After trial, the jury convicted Sowell of eleven aggravated murders and numerous related offenses and specifications, and recommended death for each aggravated-murder conviction. The trial court merged certain counts and specifications for sentencing, accepted the recommendations, and imposed eleven death sentences. The Supreme Court of Ohio affirmed the convictions and sentences.

DISPOSITION

affirmed

CASES CITED

- State v. Quarterman, 140 Ohio St.3d 464, 2014-Ohio-4034, 19 N.E.3d 900
- Waller v. Georgia, 467 U.S. 39, 45-50 (1984)
- Press-Enterprise Co. v. Superior Court of California, Riverside County, 464 U.S. 501 (1984)
- State v. Bethel, 110 Ohio St.3d 416, 2006-Ohio-4853, 854 N.E.2d 150, ¶ 87
- Sheppard v. Maxwell, 384 U.S. 333 (1966)
- Hal Artz Lincoln-Mercury, Inc. v. Ford Motor Co., 28 Ohio St.3d 20, 502 N.E.2d 590 (1986)
- State v. Campbell, 90 Ohio St.3d 320, 324, 738 N.E.2d 1178 (2000)
- State v. Cassano, 96 Ohio St.3d 94, 2002-Ohio-3751, 772 N.E.2d 81, ¶ 64
- State v. Lundgren, 73 Ohio St.3d 474, 653 N.E.2d 304 (1995)
- State v. Jones, 91 Ohio St.3d 335, 338, 744 N.E.2d 1163 (2001)
- State v. Tyler, 50 Ohio St.3d 24, 31, 553 N.E.2d 576 (1990)
- Morgan v. Illinois, 504 U.S. 719 (1992)
- Patton v. Yount, 467 U.S. 1025 (1984)
- State v. Mitts, 81 Ohio St.3d 223, 690 N.E.2d 522 (1998)
- State v. Spisak, 36 Ohio St.3d 80, 521 N.E.2d 800 (1988)
- State v. Garner, 74 Ohio St.3d 49, 656 N.E.2d 623 (1995)
- State v. Moore, 81 Ohio St.3d 22, 689 N.E.2d 1 (1998)
- Valentine v. Konteh, 395 F.3d 626 (6th Cir. 2005)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Ring v. Arizona, 536 U.S. 584 (2002)
- State v. Dixon, 101 Ohio St.3d 328, 2004-Ohio-1585, 805 N.E.2d 1042, ¶ 69
- State v. Lorraine, 66 Ohio St.3d 414, 613 N.E.2d 212 (1993)
- State v. Strickland, 466 U.S. 668, 687-694 (1984)
- State v. Bradley, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989)
- Florida v. Nixon, 543 U.S. 175 (2004)
- State v. Sapp, 105 Ohio St.3d 104, 2004-Ohio-7008, 822 N.E.2d 1239, ¶ 103
- State v. Steffen, 31 Ohio St.3d 111, 509 N.E.2d 383 (1987)
- State v. McGuire, 80 Ohio St.3d 390, 686 N.E.2d 1112 (1997)
- State v. D'Ambrosio, 73 Ohio St.3d 141, 652 N.E.2d 710 (1995)