

SUPREME COURT OF KANSAS

State v. Summers

293 Kan. 819 (2012) · Decided February 3, 2012

SUMMARY

The Kansas Supreme Court affirmed Jamaal Summers’ first-degree murder conviction. It held that Miranda warnings were not required for statements Summers made during a noncustodial interview, that evidence concerning the victim’s statement that “Homie” would visit was admissible or harmlessly cumulative, and that an improper prosecutorial question did not warrant reversal. The court vacated the lifetime postrelease-supervision portion of Summers’ off-grid life sentence.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Rosen, J.
JURISDICTION	Kansas
DECIDED	February 3, 2012
DISPOSITION	vacated
PROCEDURAL POSTURE	Jamaal Summers appealed his first-degree murder conviction and sentence following a second jury trial after the first trial ended in a mistrial. He challenged the admission of his statements to police, the admission of the victim's statements concerning an expected visitor, prosecutorial misconduct during cross-examination, and the imposition of lifetime postrelease supervision.
STANDARD OF REVIEW	For suppression rulings, factual findings are reviewed for substantial competent evidence and the ultimate legal conclusion is reviewed de novo. The custodial-interrogation circumstances are reviewed for substantial competent evidence, while whether a reasonable person would have felt free to terminate the interview is reviewed de novo. Admission of hearsay under a statutory exception is reviewed for abuse of discretion. Prosecutorial misconduct is analyzed first for whether the question was proper and then for grossness and flagrancy, prosecutorial ill will, and whether the evidence was so direct and overwhelming that the misconduct likely had little effect on the jury.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Jamaal Summers v. State of Kansas

TOPICS

criminal procedure

miranda rights

hearsay

prosecutorial misconduct

sentencing

PRACTICE AREAS

criminal procedure

criminal evidence

constitutional criminal procedure

sentencing

QUESTIONS PRESENTED

1. Whether Summers was subjected to custodial interrogation requiring Miranda warnings when he spoke with police at his father's house.
2. Whether the victim's statements to his wife and neighbor that "Homie" was coming over were admissible under K.S.A. 2006 Supp. 60-460(d)(3).
3. Whether the prosecutor's improper cross-examination question about the route Summers took prejudiced his right to a fair trial after the trial court sustained an objection.
4. Whether the trial court had authority to impose lifetime postrelease supervision in conjunction with an off-grid indeterminate life sentence.

HOLDINGS

1. The interrogation was noncustodial, so Miranda warnings were not required and the trial court properly admitted Summers's statements.
2. The victim's statement to his wife that "Homie" was coming over was admissible under K.S.A. 2006 Supp. 60-460(d)(3).
3. The court did not decide whether the victim's statement to the neighbor was admissible because the statement was cumulative of other unobjected-to evidence.
4. Although the prosecutor's question about whether defense counsel told the investigator what route Summers took was improper, it did not require reversal because the trial court sustained the objection, the question was not answered or repeated, and the evidence of guilt was compelling.
5. A sentencing court lacks authority to impose postrelease supervision in conjunction with an off-grid indeterminate life sentence; the lifetime postrelease-supervision portion of Summers's sentence was vacated.

KEY QUOTATIONS

"An inmate who has received an off-grid indeterminate life sentence can leave prison only if the successor to the Kansas Parole Board grants the inmate parole. Therefore, a sentencing court has no authority to order a term of postrelease supervision in conjunction with an off-grid indeterminate life sentence." (at 832)

FACTUAL BACKGROUND

Salvador Velasquez was shot and killed at his home on June 18, 2007. Phone records showed numerous calls between Velasquez and phone numbers associated with Summers, and witnesses testified that Velasquez said his friend “Homie” was coming over; witnesses later identified Summers as Homie. Cartridge-case testing indicated that shell casings found at the scene and an earlier casing found near Summers's neighbors had been fired from the same .40-caliber firearm, and Summers had reported his handgun stolen shortly before the calls to Velasquez. Five days after the killing, Summers spoke with officers at his father's house without receiving Miranda warnings, and the trial court admitted his statements.

PROCEDURAL HISTORY

Summers's first jury trial ended in a mistrial because the jury could not reach a unanimous verdict. A second jury convicted him of first-degree murder. The district court imposed an off-grid indeterminate life sentence with no parole for 25 years and lifetime postrelease supervision. The Kansas Supreme Court affirmed the conviction, affirmed the sentence in part, and vacated the lifetime postrelease-supervision component.

DISPOSITION

vacated

CASES CITED

- State v. Edwards, 291 Kan. 532, 545, 243 P.3d 683 (2010)
- State v. Morton, 286 Kan. 632, 640-643, 186 P.3d 785 (2008)
- Stansbury v. California, 511 U.S. 318, 324-25, 114 S. Ct. 1526, 128 L. Ed. 2d 293 (1994)
- State v. Davis, 283 Kan. 569, 573, 158 P.3d 317 (2006)
- State v. Inkelaar, 293 Kan. 414, 428, 264 P.3d 81 (2011)
- State v. Cash, 293 Kan. 326, Syl. ¶ 2, 263 P.3d 786 (2011)