

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Arroyo

442 Mass. 135 (2004) · Decided June 25, 2004

SUMMARY

The Massachusetts Supreme Judicial Court affirmed Ezequiel Arroyo’s convictions for murder in the first degree, assault and battery by means of a dangerous weapon, and unlawful possession of a firearm. The court rejected challenges concerning sufficiency of the evidence, grand jury proceedings, compelled blood sampling, admission of jacket and DNA evidence, prosecutorial closing argument, jury instructions, and review under G. L. c. 278, § 33E.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cordy, J.
JURISDICTION	Massachusetts
DECIDED	June 25, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions after a jury trial for murder in the first degree, assault and battery by means of a dangerous weapon, and unlawful possession of a firearm.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by determining whether the trial evidence and reasonable inferences, viewed in the light most favorable to the Commonwealth, permitted a rational jury to find every essential element beyond a reasonable doubt. Grand-jury challenges are reviewed for whether the grand jury heard sufficient evidence to establish the defendant's identity and probable cause to arrest. Admission of scientific testimony is reviewed for abuse of discretion; unpreserved claims are reviewed for a substantial likelihood of a miscarriage of justice. Prosecutorial-closing-argument claims are evaluated under the applicable four-factor framework, with unpreserved claims subject to substantial-likelihood review. Admission of relevant evidence over prejudice is reviewed for palpable error. Review under G. L. c. 278, § 33E, is plenary.
PRECEDENTIAL VALUE	Published, precedential opinion of the Massachusetts Supreme Judicial Court.

TOPICS

criminal procedure

evidence

fourth amendment

probable cause

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PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

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QUESTIONS PRESENTED

1. Whether the trial evidence was sufficient to support the convictions despite the absence of direct eyewitness identification.
2. Whether the indictments should have been dismissed because the grand jury lacked probable-cause evidence or because the Commonwealth failed to present exculpatory evidence.
3. Whether there was a sufficient constitutional basis to compel Arroyo to provide a postindictment blood sample.
4. Whether evidence concerning the green jacket was relevant and not unduly prejudicial.
5. Whether the trial judge properly admitted PCR-based DNA evidence without a reliability hearing and whether counsel was ineffective for failing to object.
6. Whether improper prosecutorial closing arguments referring to demographic statistics and the caliber of the weapon required reversal.
7. Whether the jury instruction on assault and battery by means of a dangerous weapon and transferred intent improperly reduced the required mens rea.
8. Whether the murder conviction should be reversed or reduced under the Supreme Judicial Court's independent review authority under G. L. c. 278, § 33E.

HOLDINGS

1. The circumstantial evidence, viewed in the light most favorable to the Commonwealth, was sufficient for a rational jury to find Arroyo guilty beyond a reasonable doubt of the charged offenses.
2. The indictments were supported because the grand jury heard sufficient evidence to establish Arroyo's identity and probable cause to arrest him, and an indictment may be based on hearsay testimony.
3. The Commonwealth was not required to present the eyewitnesses' inability to identify Arroyo as separate exculpatory evidence because the fact was disclosed through investigating-officer testimony and would not likely have affected the grand jury's decision.
4. The order compelling Arroyo to provide a blood sample satisfied the Fourth Amendment because the Commonwealth showed that the sample would probably produce evidence relevant to his guilt.
5. The green jacket was relevant and its admission was not unduly prejudicial.

6. The DNA evidence was properly admitted, and counsel was not ineffective for failing to object because the objection was not preserved and the record did not show that a reliability objection would have succeeded or caused prejudice.
7. The prosecutor improperly argued facts not in evidence by referring to Boston demographic statistics and asserting that the victims were shot with a nine-millimeter weapon, but the errors did not require reversal because the jury's verdicts were not substantially likely to have been affected.
8. The jury instruction was correct because it required proof that Arroyo intended to touch the victim, while properly explaining that the Commonwealth need not prove a specific intent to cause injury.
9. After reviewing the law and the evidence of the whole case, the court found no reason to reverse or reduce Arroyo's first-degree murder conviction.

KEY QUOTATIONS

"The relevant question is whether all of the evidence, including the permissible inferences drawn therefrom, taken together, supports a finding, beyond a reasonable doubt, that Arroyo was the assailant." (at 140)

"An order compelling one to give a blood sample is a search and seizure under the Fourth Amendment [to the United States Constitution]." (at 143)

"It is beyond debate that counsel must restrict closing argument to the evidence and the fair inferences that might be drawn therefrom." (at 147)

FACTUAL BACKGROUND

Rivera was fatally shot and LaBranche was injured during an afternoon shooting in Dorchester. No eyewitness identified Arroyo, but witnesses described the assailant and police found a recently discarded green jacket along the reported flight path; the jacket resembled the assailant's jacket and contained a bloodstain for which Arroyo was a possible DNA source. Evidence also showed that Arroyo had a motive arising from disputed clothing, possessed a nine-millimeter handgun shortly before the shooting, planned travel to Puerto Rico, and made an unexplained apology shortly after the shooting.

PROCEDURAL HISTORY

A jury convicted Arroyo of murdering Luis Rivera, assaulting and injuring Marie LaBranche with a dangerous weapon, and unlawfully possessing a firearm. The trial judge denied motions for required findings of not guilty and a pretrial motion to dismiss the indictments, allowed the Commonwealth's motion for a postindictment blood sample, admitted evidence concerning a green jacket and DNA testing, and entered judgment on the verdicts. The Supreme Judicial Court reviewed the convictions and the defendant's claims concerning sufficiency, grand-jury probable cause, exculpatory evidence, blood-sample testing, evidentiary rulings, closing argument, jury instructions, and plenary review under G. L. c. 278, § 33E.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Latimore, 378 Mass. 671, 677 (1979)
- Commonwealth v. Bush, 427 Mass. 26, 30 (1998)
- Commonwealth v. Morris, 422 Mass. 254, 255, 257-259 (1996)
- Commonwealth v. Swafford, 441 Mass. 329, 339-342 (2004)
- Commonwealth v. McCarthy, 385 Mass. 160, 162-163 (1982)
- Commonwealth v. Kater, 432 Mass. 404, 412, 422-423 (2000)
- Commonwealth v. O'Dell, 392 Mass. 445, 447, 449 (1984)
- Commonwealth v. Wilcox, 437 Mass. 33, 37 (2002)
- Commonwealth v. Trigones, 397 Mass. 633, 640 (1986)
- Commonwealth v. LaCorte, 373 Mass. 700, 702 (1977)
- Commonwealth v. Fayerweather, 406 Mass. 78, 83 (1989)
- Commonwealth v. Yesilciman, 406 Mass. 736, 744 (1990)
- Commonwealth v. Tobin, 392 Mass. 604, 613 (1984)
- Commonwealth v. Sicari, 434 Mass. 732, 749-752 (2001), cert. denied, 534 U.S. 1142 (2002)
- Commonwealth v. Vao Sok, 425 Mass. 787, 789-792, 799 (1997)
- Canavan's Case, 432 Mass. 304, 309-312 (2000)
- Commonwealth v. Sparks, 433 Mass. 654, 659-660 (2001)
- Commonwealth v. Saferian, 366 Mass. 89, 96 (1974)
- Commonwealth v. Kelly, 417 Mass. 266, 270-271 (1994)
- Commonwealth v. Kozec, 399 Mass. 514, 519 (1987)
- Commonwealth v. Johnson, 429 Mass. 745, 748 (1999)
- Commonwealth v. Nunes, 430 Mass. 1, 5 (1999)
- Commonwealth v. Ruddock, 428 Mass. 288, 292 n.3 (1998)
- Commonwealth v. Guy, 441 Mass. 96, 107 (2004)
- Commonwealth v. Ford, 424 Mass. 709, 710, 712 (1997)
- Commonwealth v. Garofalo, 46 Mass. App. Ct. 191, 192 (1999)
- Commonwealth v. Moore, 36 Mass. App. Ct. 455, 458 (1994)
- Commonwealth v. Mandile, 403 Mass. 93, 96, 99-102 (1988)
- Commonwealth v. Mazza, 399 Mass. 395, 396-400 (1987)
- Commonwealth v. Dinkins, 440 Mass. 715, 721 (2004)