

SUPREME COURT OF FLORIDA

Victor Guzman v. State of Florida

214 So. 3d 625 (Fla. 2017) · No. SC13-1002 · Decided April 6, 2017

SUMMARY

The Supreme Court of Florida affirmed Victor Guzman’s first-degree murder conviction but reversed his death sentence and remanded for a new penalty phase. The court rejected Guzman’s challenges concerning references to jail and a possible DNA match, alleged improper closing arguments, burden shifting, and comments on his right to remain silent. The opinion addresses the admission and evaluation of DNA evidence, mistrial standards, fundamental error, and capital sentencing.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| COURT                 | Supreme Court of Florida                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Per Curiam; Labarga, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Polston, J.                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Florida                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | April 6, 2017                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | SC13-1002                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Direct appeal from a first-degree murder conviction and death sentence imposed by the Circuit Court in and for Miami-Dade County.                                                                                                                                                                                                                                                                                            |
| STANDARD OF REVIEW    | Denial of a motion for mistrial is reviewed for abuse of discretion. Unpreserved claims concerning improper closing argument are reviewed for fundamental error. In death-penalty direct appeals, the court independently reviews the record for competent, substantial evidence supporting the conviction. Sufficiency of wholly circumstantial evidence is reviewed under the reasonable-hypothesis-of-innocence standard. |
| PRECEDENTIAL VALUE    | Published Florida Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Victor Guzman v. State of Florida                                                                                                                                                                                                                                                                                                                                                                                            |

TOPICS

- sentencing
- criminal procedure
- sixth amendment
- evidence
- appellate procedure

## PRACTICE AREAS

criminal law

capital sentencing

criminal procedure

appellate practice

evidence

## QUESTIONS PRESENTED

1. Whether references during the guilt phase to Guzman's presence in jail and to a possible DNA match required a mistrial.
2. Whether unobjected-to statements in the State's closing argument improperly inflamed the jury, shifted the burden of proof, or commented on Guzman's right to remain silent.
3. Whether competent, substantial evidence supported Guzman's first-degree murder conviction based on circumstantial DNA and other forensic evidence.
4. Whether Guzman's nonunanimous jury recommendation rendered his death sentence unconstitutional under *Hurst v. Florida* and related Florida precedent.

## HOLDINGS

1. The trial court did not abuse its discretion by denying Guzman's motions for mistrial because the challenged references were brief, isolated, inadvertent, not sufficiently prejudicial to vitiate the trial, and were addressed by curative instructions.
2. The unpreserved challenged comments did not constitute fundamental error, and the prosecutor's question concerning Guzman's unexplained apology was not an improper comment on his right to remain silent because Guzman had waived his rights and freely conversed with police.
3. Competent, substantial evidence supported the conviction because the DNA evidence, the circumstances of the blood evidence, and the evidence concerning the extensive stabbing and attempted sexual assault were inconsistent with Guzman's asserted theories of mistake or contamination and supported both premeditated-murder and felony-murder theories.
4. The death sentence could not stand because the jury recommended death by a nonunanimous vote of seven to five, and the failure to require a unanimous verdict was not harmless.

## KEY QUOTATIONS

*"The granting of a motion for mistrial is not based on whether the error is 'prejudicial.'" (-10-)*

*"Rather, the standard requires that a mistrial be granted only 'when an error is so prejudicial as to vitiate the entire trial,' such that a mistrial is 'necessary to ensure that the defendant receives a fair trial.'" (-10-)*

*"For that reason, it is error for a prosecutor to make statements that shift the burden of proof and invite the jury to convict the defendant for some reason other than that the State has proved its case beyond a reasonable doubt." (-14-)*

*"In light of the nonunanimous jury recommendation to impose a death sentence, it cannot be said that the failure to require a unanimous verdict was harmless." (-27-)*

## FACTUAL BACKGROUND

Severina Fernandez, an eighty-year-old woman, was found stabbed to death in her Miami apartment in 2000. DNA from blood found in several areas of the apartment and from a plastic cup matched Guzman's DNA, with a reported random-match probability of one in 153 trillion for the blood profile. Guzman denied knowing Fernandez or having been to her apartment building, and the State presented no eyewitness, confession, fingerprint, or identified murder weapon. The jury convicted Guzman of first-degree murder and recommended death by a seven-to-five vote.

#### PROCEDURAL HISTORY

Guzman was indicted for first-degree murder, tried, and convicted. The jury recommended death by a vote of seven to five, and the trial court imposed a death sentence after finding aggravating and mitigating circumstances. On direct appeal, the Supreme Court of Florida affirmed the conviction, vacated the death sentence, and remanded for a new penalty phase because the nonunanimous death recommendation could not satisfy the constitutional requirements recognized in *Hurst v. Florida*.

#### DISPOSITION

reversed\_and\_remanded

#### REMAND INSTRUCTIONS

Vacate the death sentence and conduct a new penalty phase. The first-degree murder conviction is affirmed.

#### CASES CITED

- *Gosciminski v. State*, 132 So. 3d 678, 695-96 (Fla. 2013)
- *Scott v. State*, 66 So. 3d 923, 931 (Fla. 2011)
- *Banks v. State*, 46 So. 3d 989, 997 (Fla. 2010)
- *Lugo v. State*, 2 So. 3d 1, 19 (Fla. 2008)
- *Snipes v. State*, 733 So. 2d 1000, 1005 (Fla. 1999)
- *Fletcher v. State*, 168 So. 3d 186, 207 (Fla. 2015)
- *Braddy v. State*, 111 So. 3d 810, 837 (Fla. 2012)
- *Brooks v. State*, 762 So. 2d 879, 898-99 (Fla. 2000)
- *Warmington v. State*, 149 So. 3d 648, 652 (Fla. 2014)
- *Downs v. Moore*, 801 So. 2d 906, 911-12 (Fla. 2001)
- *Ragland v. State*, 358 So. 2d 100, 100 (Fla. 3d DCA 1978)
- *Orme v. State*, 677 So. 2d 258, 262 (Fla. 1996)
- *Twilegar v. State*, 42 So. 3d 177, 188, 190 (Fla. 2010)
- *Kocaker v. State*, 119 So. 3d 1214, 1225 (Fla. 2013)
- *Durousseau v. State*, 55 So. 3d 543, 557 (Fla. 2010)
- *Asay v. State*, 580 So. 2d 610, 612 (Fla. 1991)
- *Jackson v. State*, 180 So. 3d 938, 956 (Fla. 2015)

- Hurst v. Florida, 136 S. Ct. 616, 619 (2016)
- Hurst v. State, 202 So. 3d 40, 57 (Fla. 2016)
- Franklin v. State, 41 Fla. L. Weekly S573, S575 (Fla. Nov. 23, 2016)
- Ring v. Arizona, 536 U.S. 584 (2002)

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