

DISTRICT OF COLUMBIA COURT OF APPEALS

Wheeler v. United States

977 A.2d 973 (D.C. 2009) · No. Nos. 05-CF-716, 07-CO-637 · Decided August 13, 2009

SUMMARY

The District of Columbia Court of Appeals affirmed Harry Wheeler's convictions for conspiracy to commit first-degree murder while armed, first-degree murder while armed, and possession of a firearm during a crime of violence. The court addressed the sufficiency of circumstantial evidence, alleged deficiencies in aiding-and-abetting and Pinkerton conspiracy instructions, and the effect of those instructions on the firearm-related convictions. It also considered limitations on cross-examination and Jencks Act material concerning a witness's cooperation with law enforcement.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ferren, Senior Judge; Ruiz, Associate Judge; Blackburne-Rigsby, Associate Judge
JURISDICTION	District of Columbia
DECIDED	August 13, 2009
DOCKET	Nos. 05-CF-716, 07-CO-637
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wheeler appealed convictions for conspiracy to commit first-degree murder while armed, first-degree murder while armed, and possession of a firearm during a crime of violence, challenging the sufficiency of the evidence, jury instructions, limitations on cross-examination and third-party-motive evidence, denial of a mistrial, sentencing-related discovery rulings, and denial of post-conviction ineffective-assistance motions.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by determining whether a rational trier of fact could have found the essential elements beyond a reasonable doubt, viewing the evidence in the light most favorable to the government. Evidentiary and mistrial rulings are reviewed for abuse of discretion. The denial of a D.C. Code § 23-110 motion without a hearing is reviewed for abuse of discretion when the record conclusively shows that the defendant is entitled to no relief. Unpreserved instructional error is ordinarily reviewed for plain error,

	although the court concluded the challenged error was harmless beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Harry Wheeler v. United States

TOPICS

criminal procedure conspiracy evidence sixth amendment ineffective assistance

PRACTICE AREAS

criminal law criminal procedure evidence constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether sufficient evidence supported Wheeler's conspiracy, first-degree murder while armed, and possession-of-a-firearm convictions.
2. Whether the erroneous aiding-and-abetting instruction, which permitted conviction based on the natural and probable consequences of another person's conduct, required reversal of the murder conviction.
3. Whether the conspiracy and Pinkerton instructions adequately supported the convictions for murder while armed and possession of a firearm during a crime of violence.
4. Whether the trial court improperly restricted access to Jencks material and cross-examination concerning witness Babb's cooperation with law enforcement.
5. Whether the trial court properly excluded evidence concerning drugs possessed by Taylor and drugs in Taylor's system as evidence of third-party responsibility.
6. Whether the trial court abused its discretion by denying a mistrial after a witness stated that Wheeler had gotten Taylor killed.
7. Whether the trial court abused its discretion by denying a sentencing continuance and discovery concerning an internal-affairs investigation of a government witness.
8. Whether the trial court properly denied Wheeler's ineffective-assistance motions without an evidentiary hearing.

HOLDINGS

1. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Wheeler knowingly and voluntarily participated in a conspiracy to murder Taylor.
2. Although the aiding-and-abetting instruction improperly diluted the mens rea required for first-degree murder, the error was harmless beyond a reasonable doubt because the jury unanimously found the elements of a conspiracy to murder and that the murder was a natural or reasonably foreseeable consequence of that conspiracy under Pinkerton.

3. The conspiracy and Pinkerton findings supported Wheeler's convictions for first-degree murder while armed and possession of a firearm during a crime of violence.
4. The trial court did not abuse its discretion by denying Wheeler's request for Jencks material concerning Babb's statements in unrelated cases.
5. The trial court properly excluded evidence that Taylor possessed cocaine or had drugs in his system because it showed only that hypothetical, unidentified third parties might have had motives to kill him, not a reasonable possibility that a specific third party committed the murder.
6. The trial court did not abuse its discretion by denying a mistrial after Babb spontaneously stated that Wheeler had gotten Taylor killed.
7. The trial court did not abuse its discretion by denying a sentencing continuance and discovery concerning an internal-affairs investigation of Sergeant Johnson.
8. The trial court properly denied Wheeler's D.C. Code § 23-110 motions without an evidentiary hearing because the record conclusively showed that he was entitled to no relief.

KEY QUOTATIONS

"Every juror found, at the very least, that Wheeler had joined a criminal conspiracy with an unknown co-conspirator, and every juror found that Taylor's murder was the natural or probable result of that conspiracy." (985)

"As we have said, the Jencks Act is not a tool for discovery; rather, "[o]ne purpose of the Jencks Act was to restrict defendant's right to any general exploration of the government's files."" (989)

"Affirmed." (993)

FACTUAL BACKGROUND

Michael Taylor was shot and killed on April 1, 2003, shortly after Taylor and another person robbed Brittainy Johnson, the mother of Wheeler's child, of \$17,000 Wheeler had provided for their son's care. Witnesses testified that Wheeler was angry about the robbery, sought information identifying the robbers, threatened retaliation, and discussed getting an acquaintance to harm the robber. Wheeler was repeatedly seen with another man before the killing, became calmer after the murder, and made statements after the murder that supported an inference of involvement in a conspiracy.

PROCEDURAL HISTORY

A grand jury indicted Wheeler on February 4, 2004. After a jury trial, he was convicted on all three charged offenses and received concurrent sentences of sixteen months for conspiracy, forty-five years for first-degree murder while armed, and five years for possession of a firearm during a crime of violence. The trial court later denied his requests for a sentencing continuance, discovery, and relief under D.C. Code § 23-110 without an evidentiary hearing. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- McCoy v. United States, 890 A.2d 204, 213-14 (D.C. 2006)
- McCullough v. United States, 827 A.2d 48, 58 (D.C. 2003)
- Opper v. United States, 348 U.S. 84, 90 (1954)
- Smith v. United States, 348 U.S. 147, 152 (1954)
- Wilson-Bey v. United States, 903 A.2d 818 (D.C. 2006) (en banc)
- Pinkerton v. United States, 328 U.S. 640 (1946)
- Lancaster v. United States, 975 A.2d 168, 175 (D.C. 2009)
- Coleman v. United States, 948 A.2d 534, 552-53 (D.C. 2008)
- Lampkins v. United States, 973 A.2d 171, 174 (D.C. 2009)
- Thomas v. United States, 731 A.2d 415, 420 n.6 (D.C. 1999)
- Broadie v. United States, 925 A.2d 605, 617 (D.C. 2007)
- Guishard v. United States, 669 A.2d 1306, 1314 (D.C. 1995)
- Blackmon v. United States, 835 A.2d 1070, 1075 (D.C. 2003)
- Lyles v. United States, 879 A.2d 979, 983 n.12 (D.C. 2005)
- Butler v. United States, 481 A.2d 431, 446 (D.C. 1984), cert. denied, 470 U.S. 1029 (1985)
- Hilliard v. United States, 638 A.2d 698, 704 (D.C. 1994)
- United States v. Augenblick, 393 U.S. 348, 355 (1969)
- Gethers v. United States, 684 A.2d 1266, 1271 (D.C. 1996)
- Johnson v. United States, 552 A.2d 513, 516 (D.C. 1989)
- Winfield v. United States, 676 A.2d 1, 5 (D.C. 1996) (en banc)
- Smith v. United States, 665 A.2d 962, 966 (D.C. 1995)
- Coleman v. United States, 779 A.2d 297, 302 (D.C. 2001)
- Bennett v. United States, 597 A.2d 24, 27 (D.C. 1991)
- Roy v. United States, 871 A.2d 498, 505 n.3 (D.C. 2005)
- Parker v. United States, 757 A.2d 1280, 1286 (D.C. 2000)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Strickland v. Washington, 466 U.S. 668, 687-98 (1984)
- Carter v. United States, 684 A.2d 331, 344 (D.C. 1996) (en banc)
- Sykes v. United States, 585 A.2d 1335, 1340 (D.C. 1991)

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