

SUPREME COURT OF CONNECTICUT

State v. Diaz, 302 Conn. 93

25 A.3d 594 (2011) · No. No. 17949 · Decided August 16, 2011

SUMMARY

The Connecticut Supreme Court affirmed Luis Diaz's convictions for murder, carrying a pistol without a permit, and criminal possession of a pistol. The court held that the trial court did not commit plain error by failing to give sua sponte a special credibility instruction concerning three witnesses involved in the criminal justice system. The court declined to exercise its supervisory powers to require such an instruction for all witnesses with a potential interest in testifying for the state, while reaffirming that trial courts have discretion to give cautionary instructions when witness testimony may be particularly unreliable.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Rogers, C.J.; Norcott, J.; Palmer, J.; Zarella, J.; McLachlan, J.; Eveleigh, J.
JURISDICTION	Connecticut
DECIDED	August 16, 2011
DOCKET	No. 17949
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction for murder, carrying a pistol without a permit, and criminal possession of a pistol. The defendant challenged the trial court's failure, sua sponte, to give a special credibility instruction concerning three government witnesses and sought a supervisory rule requiring such an instruction.
STANDARD OF REVIEW	Plain-error review for the unpreserved instructional claim; abuse-of-discretion principles govern the trial court's discretionary decision whether to give a cautionary credibility instruction. Supervisory-rule requests are reviewed under the court's inherent supervisory authority.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; majority holding precedential.
PARTIES	Luis Diaz v. State of Connecticut

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QUESTIONS PRESENTED

1. Whether the trial court committed plain error by failing, sua sponte, to instruct the jury to view with great caution the testimony of three witnesses who had criminal matters or other involvement with the criminal justice system and might receive a government benefit.
2. Whether the Supreme Court of Connecticut should exercise its supervisory authority to require a special credibility instruction whenever a witness is in a position to receive a benefit from the government in exchange for testimony.

HOLDINGS

1. The trial court did not commit plain error by failing sua sponte to give a special credibility instruction for McIntosh and Jefferson, who testified about events surrounding the crime rather than a jailhouse confession.
2. Even assuming Ortiz qualified as a classic jailhouse informant, the trial court's failure to give the instruction sua sponte was not reversible plain error.
3. The court declined to exercise its supervisory authority to require a special credibility instruction whenever a witness is involved in the criminal justice system or may receive a government benefit.
4. A trial court has discretion to give a cautionary credibility instruction when it reasonably believes a witness may be particularly unreliable because of a special interest in testifying for the state and that motive may not be adequately exposed through cross-examination or argument.

KEY QUOTATIONS

“Plain error is a doctrine that should be invoked sparingly.” (302 Conn. 101)

“Thus, we take this opportunity to reaffirm the well established common-law rule that it is within the discretion of a trial court to give a cautionary instruction to the jury whenever the court reasonably believes that a witness' testimony may be particularly unreliable because the witness has a special interest in testifying for the state and the witness' motivations may not be adequately exposed through cross-examination or argument by counsel.” (302 Conn. 113)

FACTUAL BACKGROUND

Philip Tate was shot and killed outside the Side Effect West bar in Bridgeport on January 11, 2006. Three state witnesses—Corey McIntosh, Eddie Ortiz, and James Jefferson—identified or implicated Diaz as the shooter while each had some involvement with the criminal justice system and hoped or might have expected

consideration from the government. The State presented no physical evidence tying Diaz to the shooting, and the murder weapon was never recovered; Diaz's girlfriend provided an alibi. The trial court gave a general credibility instruction, and defense counsel argued that the witnesses had motives to fabricate.

PROCEDURAL HISTORY

A jury convicted Diaz on all three counts, and the trial court rendered judgment in accordance with the verdict. Diaz appealed directly to the Supreme Court of Connecticut pursuant to General Statutes § 51-199(b)(3). The Supreme Court affirmed, holding that the failure to give a special credibility instruction was not plain error and declining to adopt the requested supervisory rule.

DISPOSITION

affirmed

CASES CITED

- State v. Ebron, 292 Conn. 656, 975 A.2d 17 (2009)
- State v. Patterson, 276 Conn. 452, 886 A.2d 777 (2005)
- State v. Arroyo, 292 Conn. 558, 973 A.2d 1254 (2009), cert. denied, 559 U.S. 911 (2010)
- Crawford v. Commissioner of Correction, 294 Conn. 165, 982 A.2d 620 (2009)
- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- State v. Valedon, 261 Conn. 381, 386, 802 A.2d 836 (2002)
- State v. Reynolds, 264 Conn. 1, 215, 836 A.2d 224 (2003), cert. denied, 541 U.S. 908 (2004)
- State v. Ledbetter, 275 Conn. 534, 577-78, 881 A.2d 290 (2005), cert. denied, 547 U.S. 1082 (2006)
- State v. Lemoine, 233 Conn. 502, 510-11, 659 A.2d 1194 (1995)
- State v. Anderson, 212 Conn. 31, 49, 561 A.2d 897 (1989)
- State v. Cari, 163 Conn. 174, 182, 303 A.2d 7 (1972)
- United States v. Richardson, 764 F.2d 1514, 1521 (11th Cir. 1985), cert. denied, 474 U.S. 952 (1985)
- United States v. Bass, 478 F.3d 948, 951 (8th Cir. 2007)
- State v. Lawrence, 282 Conn. 141, 174, 920 A.2d 236 (2007)
- State v. Kitchens, 299 Conn. 447, 472-73, 10 A.3d 942 (2011)
- On Lee v. United States, 343 U.S. 747, 757 (1952)
- Banks v. Dretke, 540 U.S. 668, 701-02 (2004)
- Hoffa v. United States, 385 U.S. 293, 311-12 (1966)
- State v. Ouellette, 295 Conn. 173, 189-91, 989 A.2d 1048 (2010)
- Napue v. Illinois, 360 U.S. 264, 269 (1959)
- United States v. Prawl, 168 F.3d 622, 628-29 (2d Cir. 1999)

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