

SUPREME COURT OF CONNECTICUT

State v. Rivera, 282 Conn. 779

928 A.2d 531 (2007) · No. No. 17574 · Decided June 26, 2007

SUMMARY

The Supreme Court of Connecticut dismissed the state's certified appeal after concluding that certification had been improvidently granted. The appeal concerned whether the trial court's conspiracy instruction was deficient because it did not identify the intended victim, and the Appellate Court had reversed the conspiracy conviction on that basis.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Per curiam; Rogers, C.J.; Norcott, J.; Katz, J.; Palmer, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	June 26, 2007
DOCKET	No. 17574
DISPOSITION	dismissed
PROCEDURAL POSTURE	The State appealed by certification from the Appellate Court's reversal of the defendant's conspiracy-to-commit-murder conviction. The Supreme Court dismissed the certified appeal because certification had been improvidently granted.
STANDARD OF REVIEW	The Supreme Court stated that it examined the entire record on appeal and considered the parties' briefs and oral arguments before determining that certification had been improvidently granted. The underlying unpreserved instructional claim had been reviewed by the Appellate Court under State v. Golding.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential as to the dismissal of this improvidently granted certified appeal, but not a merits holding on the conspiracy instruction.
PARTIES	State of Connecticut v. Xavier Rivera

TOPICS

- appellate procedure
- jury instructions
- instructions objections
- criminal procedure
- conspiracy

PRACTICE AREAS

Criminal law

Appellate procedure

Jury instructions

QUESTIONS PRESENTED

1. Whether the Appellate Court properly held that the trial court's conspiracy instruction was deficient because it did not state that the State had to prove the object of the conspiracy, specifically that Cesar Rivera was the intended victim.

HOLDINGS

1. The appeal was dismissed because certification had been improvidently granted.

KEY QUOTATIONS

"We conclude that certification was improvidently granted and dismiss the appeal." (282 Conn. 779; 928 A.2d 531)

"After examining the entire record on appeal and considering the briefs and oral arguments of the parties, we have determined that the appeal in this case should be dismissed on the ground that certification was improvidently granted. The appeal is dismissed." (282 Conn. 781; 928 A.2d 533)

FACTUAL BACKGROUND

Rivera was charged with murder, attempted murder, conspiracy to commit murder, and conspiracy to attempt to commit murder. After the State conceded that the fourth count should be dismissed, the trial court declined to permit the State to amend the conspiracy count to identify Luis Romero as the intended victim and later filed a substitute information. The jury acquitted Rivera of murder but convicted him of attempt to commit murder and conspiracy to commit murder; the trial court's conspiracy instruction did not specifically identify Cesar Rivera as the alleged intended victim.

PROCEDURAL HISTORY

A jury convicted Rivera of attempt to commit murder and conspiracy to commit murder, and the trial court rendered judgment accordingly. The Appellate Court reversed the conspiracy conviction, concluding that the jury charge was deficient because it did not require the jury to find that Cesar Rivera was the intended victim of the conspiracy. The Supreme Court granted certification limited to that instructional issue, then dismissed the appeal as improvidently granted without deciding the merits.

DISPOSITION

dismissed

CASES CITED

- State v. Rivera, 92 Conn. App. 110, 112, 883 A.2d 1257 (2005)
- State v. DeJesus, 92 Conn. App. 92, 93-97, 883 A.2d 813 (2005)

- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- State v. Sanchez, 92 Conn. App. 112, 122, 884 A.2d 1 (2005)
- State v. Sanchez, 282 Conn. 787, 790, 924 A.2d 844 (2007)
- State v. DeJesus, 282 Conn. 783, 786, 928 A.2d 533 (2007)
- State v. DeJesus, 276 Conn. 929, 930, 889 A.2d 818 (2005)
- State v. Sanchez, 276 Conn. 932, 933, 890 A.2d 573 (2005)

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