

SUPREME COURT OF KANSAS

State v. Edgar

281 Kan. 47 (2006) · Decided February 10, 2006

SUMMARY

Neil E. Edgar appealed his Kansas convictions for first-degree felony murder and two counts of child abuse arising from the death and mistreatment of his adopted children. The Kansas Supreme Court considered the propriety of an aiding-and-abetting instruction and the refusal to give lesser included offense instructions, concluding from the excerpt that the instructions were supported by the evidence and that the evidence of the underlying child-abuse felony was strong.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Luckert, J.
JURISDICTION	Kansas
DECIDED	February 10, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for first-degree felony murder and two counts of abuse of a child.
STANDARD OF REVIEW	Jury instructions are reviewed by considering the instructions as a whole and asking whether they fairly and properly state the law and could have misled the jury. Prosecutorial-misconduct claims are reviewed under the two-step Tosh framework, including whether the conduct was improper and whether it was prejudicial. Sufficiency of the evidence is reviewed by considering all evidence in the light most favorable to the prosecution and asking whether a rational factfinder could find guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; binding precedent in Kansas.
PARTIES	Neil E. Edgar v. State of Kansas

TOPICS

criminal procedure

jury instructions

lesser included offense instructions

prosecutorial misconduct

evidence

PRACTICE AREAS

criminal law

criminal procedure

evidence

jury instructions

prosecutorial misconduct

QUESTIONS PRESENTED

1. Whether the trial court properly instructed the jury on aiding and abetting.
2. Whether the trial court was required to instruct on lesser included offenses of felony murder, including involuntary manslaughter based on endangering a child.
3. Whether prosecutorial misconduct during closing argument misstated the intent required for the underlying child-abuse felony and denied Edgar a fair trial.
4. Whether the prosecutor committed misconduct through questioning and argument concerning Edgar's parental responsibilities and failure to protect his children.
5. Whether sufficient evidence supported Edgar's felony-murder conviction.

HOLDINGS

1. The trial court properly gave an aiding-and-abetting instruction because the evidence permitted the jury reasonably to find that Edgar intentionally aided or abetted the child abuse.
2. The trial court was not required to give the requested lesser included offense instructions because the evidence of the underlying child-abuse felony was strong and conclusive.
3. The refusal to give the requested lesser included offense instructions did not violate Edgar's constitutional right to present his theory of defense.
4. The prosecutor improperly stated that the State did not have to prove Edgar intended to abuse Brian, but the error was harmless beyond a reasonable doubt and did not require reversal.
5. The prosecutor's argument and questioning concerning Edgar's parenting, parental duty, and failure to intervene did not constitute prosecutorial misconduct.
6. The evidence was sufficient to support Edgar's conviction for first-degree felony murder.

KEY QUOTATIONS

"A person who, either before or during its commission, intentionally aids or abets another to commit a crime with intent to promote or assist in its commission is criminally responsible for the crime committed regardless of the extent of the defendant's participation, if any, in the actual commission of the crime." (54-55)

"The only intent required for the offense of child abuse is the intent to commit the act of torturing, beating, shaking, or inflicting cruel and inhuman corporal punishment on a child; there is no requirement of an intent to injure." (58)

"The evidence of child abuse in this case was strong and conclusive." (62)

FACTUAL BACKGROUND

Neil Edgar brought his nine-year-old adopted son Brian to the hospital, where Brian was found dead from asphyxiation after aspirating vomit while a foreign object blocked his mouth. Brian had been bound and gagged with duct tape and other materials, and medical evidence showed ligature marks and injuries of different ages. Evidence from Edgar, the children, and other witnesses indicated that Brian and his siblings had repeatedly been restrained as punishment and that Edgar knew of, participated in, or failed to prevent the restraints. The jury convicted Edgar of felony murder based on child abuse and two counts of child abuse involving Martez and Christina.

PROCEDURAL HISTORY

Edgar was charged with felony murder based on child abuse and two counts of child abuse. The trial court consolidated the charges for trial, and the jury convicted Edgar on all counts. The court imposed a controlling life sentence for felony murder and concurrent 32-month sentences for the child-abuse convictions, consecutive to the life sentence. Edgar appealed, challenging the aiding-and-abetting instruction, refusal to give lesser included offense instructions, prosecutorial misconduct, and the sufficiency of the evidence.

DISPOSITION

affirmed

CASES CITED

- State v. Mays, 277 Kan. 359, 378-79, 85 P.3d 1208 (2004)
- State v. Pennington, 254 Kan. 757, 764-65, 869 P.2d 624 (1994)
- State v. Smolin, 221 Kan. 149, 153, 557 P.2d 1241 (1976)
- State v. Boone, 277 Kan. 208, 221, Syl. ¶ 6, 83 P.3d 195 (2004)
- State v. Altum, 262 Kan. 733, 738-39, 941 P.2d 1348 (1997)
- State v. Struzik, 269 Kan. 95, 113, 5 P.3d 502 (2000)
- State v. Heath, 264 Kan. 557, 572-73, 957 P.2d 449 (1998)
- State v. Hupp, 248 Kan. 644, 652-54, 809 P.2d 1207 (1991)
- State v. Gleason, 277 Kan. 624, 635, 638, 88 P.3d 218 (2004)
- State v. Calvin, 279 Kan. 193, 198, 201-02, 105 P.3d 710 (2005)
- State v. Tosh, 278 Kan. 83, 85, 87-93, Syl. ¶ 2, 91 P.3d 1204 (2004)
- State v. Young, 277 Kan. 588, 594, 87 P.3d 308 (2004)
- State v. Hurt, 278 Kan. 676, 685, 101 P.3d 1249 (2004)
- State v. Lackey, 280 Kan. 190, 216, 120 P.3d 332 (2005)
- State v. Wilson, 267 Kan. 550, 566, 987 P.2d 1060 (1999)
- State v. Burden, 30 Kan. App. 2d 690, 702-03, 46 P.3d 570 (2002), rev'd on other grounds, 275 Kan. 934, 69 P.3d 1120 (2003)
- State v. Dixon, 279 Kan. 563, 590-92, 112 P.3d 883 (2005)

- State v. Overton, 279 Kan. 547, 558-60, 112 P.3d 244 (2005)
- State v. Swinney, 280 Kan. 768, 779, 127 P.3d 261 (2006)

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