

SUPREME COURT OF THE STATE OF DELAWARE

Grayson v. State

Grayson v. State · No. No. 470, 2017 · Decided May 10, 2019

SUMMARY

The Delaware Supreme Court reversed Mark Grayson's convictions for first-degree reckless endangering, possession of a firearm during the commission of a felony, resisting arrest, and possession of a firearm by a person prohibited. The Court held that the Superior Court committed reversible error by refusing to instruct the jury on the lesser-included offense of second-degree reckless endangering. The Court also rejected Grayson's challenge to the sufficiency of the evidence and remanded for the convictions to be vacated, bail to be reinstated, and a new trial to be scheduled.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Delaware                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Collins J. Seitz, Jr.; Vaughn, Justice; Seitz, Justice; Traynor, Justice                                                                                                                                                                                                                                                                           |
| JURISDICTION          | Delaware                                                                                                                                                                                                                                                                                                                                           |
| DECIDED               | May 10, 2019                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | No. 470, 2017                                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Direct appeal from convictions and sentencing in the Delaware Superior Court.                                                                                                                                                                                                                                                                      |
| STANDARD OF REVIEW    | The court reviewed the denial of the motion for judgment of acquittal under whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the essential elements beyond a reasonable doubt, and reviewed the evidence de novo. The jury-instruction issue was reviewed for reversible error. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                                          |
| PARTIES               | Mark Grayson v. State of Delaware                                                                                                                                                                                                                                                                                                                  |

TOPICS

- lesser included offense instructions
- jury instructions
- criminal procedure
- appellate procedure
- burden of proof

## PRACTICE AREAS

criminal law

criminal procedure

appellate practice

## QUESTIONS PRESENTED

1. Whether the Superior Court reversibly erred by refusing to instruct the jury on the lesser-included offense of second degree reckless endangering because the alleged use of a firearm was considered necessarily capable of causing death.
2. Whether the evidence was insufficient to support Grayson's conviction for first degree reckless endangering.

## HOLDINGS

1. The Superior Court reversibly erred by refusing to give the requested instruction on second degree reckless endangering. The circumstances permitted a reasonable jury to find that Grayson created a substantial risk of physical injury without necessarily creating a substantial risk of death.
2. The evidence was sufficient for a rational juror to find beyond a reasonable doubt that Grayson recklessly created a substantial and unjustifiable risk that a shot could kill someone.

## KEY QUOTATIONS

*“Under the circumstances, a rational juror could conclude Grayson was aware he was shooting in a way that created a substantial and unjustifiable risk that one of the shots could kill someone.”* (at 6)

*“This matter is REMANDED to the Superior Court to vacate Grayson’s convictions, to reinstate bail, and to set a new trial date.”* (at 7)

## FACTUAL BACKGROUND

Officer Jesse Russell heard gunshots while patrolling a shopping-center parking lot and observed Grayson handling what appeared to be a firearm, with smoke emanating from it as Grayson continued shooting. Grayson fled when ordered to stop and was apprehended after a short chase. Although no firearm was recovered, police found six spent shell casings where Russell had observed Grayson operating the apparent firearm, and Grayson's hands tested positive for gunshot residue.

## PROCEDURAL HISTORY

A Superior Court grand jury indicted Grayson on first degree reckless endangering, possession of a firearm during the commission of a felony, resisting arrest, possession of a firearm by a person prohibited, and possession of firearm ammunition by a person prohibited. The charges were severed into two jury trials, resulting in convictions for first degree reckless endangering, PFDCE, resisting arrest, and PFBPP. The Superior Court declared Grayson a habitual offender and sentenced him to an aggregate forty-six years of incarceration, suspended after forty-five years for one year of probation. On direct appeal, the Delaware Supreme Court reversed and remanded because the trial court failed to give a requested lesser-included-offense instruction and rejected Grayson's sufficiency challenge.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The Superior Court was directed to vacate Grayson's convictions, reinstate bail, and set a new trial date. Jurisdiction was not retained.

## CASES CITED

- White v. State, 173 A.3d 78, 80 (Del. 2017)
- Weddington v. State, 545 A.2d 607, 612, 616 (Del. 1988)
- Monroe v. State, 652 A.2d 560, 567-68 (Del. 1995)
- Rose v. State, 51 A.3d 479, 482 (Del. 2012)
- Robertson v. State, 596 A.2d 1345, 1355 (Del. 1991)
- Shipley v. State, 570 A.2d 1159, 1170 (Del. 1990)