

SUPREME COURT OF NORTH CAROLINA

State v. Lawrence, 360 N.C. 368

627 S.E.2d 609 (2006) · No. No. 293A05 · Decided April 7, 2006

SUMMARY

The Supreme Court of North Carolina held that the defendant was unanimously convicted of three counts of taking indecent liberties with a minor and five counts of first-degree statutory rape, despite identical short-form indictments and the absence of incident-specific details. The court reversed the Court of Appeals in part and remanded the case for consideration of the remaining assignments of error. The defendant's six first-degree sexual offense convictions remained undisturbed because that issue was not properly before the court.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Justice Wainwright; Justice Timmons-Goodson
JURISDICTION	North Carolina
DECIDED	April 7, 2006
DOCKET	No. 293A05
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed based on the dissenting opinion from the Court of Appeals, which had vacated the defendant's six first-degree sexual-offense judgments and reversed and remanded the statutory-rape and indecent-liberties judgments.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	State of North Carolina v. Markeith Rodgers Lawrence

TOPICS

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QUESTIONS PRESENTED

1. Whether the jury unanimously convicted defendant of three counts of taking indecent liberties with a minor when the short-form indictments were identical and did not identify the particular incidents supporting each count.
2. Whether the jury unanimously convicted defendant of five counts of first-degree statutory rape when the five indictments were identically worded, the evidence involved multiple sexual encounters, and the indictments did not identify particular incidents.
3. Whether the Court of Appeals properly reversed or remanded the statutory-rape and indecent-liberties convictions on the ground that the verdicts may not have been unanimous.

HOLDINGS

1. A defendant may be unanimously convicted of multiple counts of taking indecent liberties with a minor even when identical short-form indictments lack details identifying the specific incidents, and jurors may have considered more incidents than the number of counts charged, because the statute does not define discrete criminal activities as separate alternative elements.
2. The jury unanimously convicted defendant of five counts of first-degree statutory rape where the victim testified to five specific incidents of statutory rape, the defendant was charged with five counts, and the jury returned five guilty verdicts on separate verdict sheets, despite evidence of additional sexual encounters and identical short-form indictments.

KEY QUOTATIONS

“Under Hartness and Lyons, a defendant may be unanimously convicted of indecent liberties even if: (1) the jurors considered a higher number of incidents of immoral or indecent behavior than the number of counts charged, and (2) the indictments lacked specific details to identify the specific incidents.” (613)

“We hold that the jury unanimously convicted defendant of three counts of taking indecent liberties with a minor and five counts of first-degree statutory rape.” (614)

FACTUAL BACKGROUND

The evidence showed that defendant engaged in repeated sexual conduct with Lucy, who was eleven or twelve years old during the relevant period. Lucy described three specific incidents constituting indecent liberties and five specific incidents of vaginal penetration constituting first-degree statutory rape, although she also testified to numerous additional sexual encounters. The jury returned guilty verdicts on three indecent-liberties counts and five statutory-rape counts using separate verdict sheets.

PROCEDURAL HISTORY

Defendant was tried in Nash County Superior Court and convicted of six counts of first-degree sexual offense, five counts of first-degree statutory rape, and three counts of taking indecent liberties with a minor. The Court of Appeals vacated the first-degree sexual-offense judgments and reversed and remanded the statutory-rape and indecent-liberties judgments, concluding that the charging documents, jury instructions, and verdict sheets did not identify the incidents supporting each count and that the verdicts might not have been unanimous. The

Supreme Court of North Carolina reversed the Court of Appeals in part as to the statutory-rape and indecent-liberties convictions and remanded for consideration of the remaining assignments of error.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Court of Appeals for consideration of defendant's remaining assignments of error, including those raised in his motion for appropriate relief. The Court of Appeals' decision vacating the six first-degree sexual-offense judgments remained undisturbed.

CASES CITED

- State v. Jordan, 305 N.C. 274, 287 S.E.2d 827 (1982)
- In re Winship, 397 U.S. 358, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970)
- State v. Hartness, 326 N.C. 561, 391 S.E.2d 177 (1990)
- State v. Lyons, 330 N.C. 298, 412 S.E.2d 308 (1991)
- State v. Wiggins, 161 N.C. App. 583, 589 S.E.2d 402 (2003), disc. rev. denied, 358 N.C. 241, 594 S.E.2d 34 (2004)