

SUPREME COURT OF SOUTH CAROLINA

State v. Cottrell, 376 S.C. 260

657 S.E.2d 451 (2008) · No. No. 26424 · Decided January 28, 2008

SUMMARY

The Supreme Court of South Carolina held that the evidence, viewed in the light most favorable to the defendant, supported a jury instruction on voluntary manslaughter as a lesser offense of murder. The court concluded that the evidence presented a jury question as to whether the police officer attempted a lawful arrest using unnecessary violence, which could constitute sufficient legal provocation. The court reversed the murder conviction and death sentence and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Pleicones; Chief Justice Toal; Justice Moore; Justice Waller; Justice Beatty
JURISDICTION	South Carolina
DECIDED	January 28, 2008
DOCKET	No. 26424
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cottrell appealed his convictions and death sentence, arguing that the trial court improperly refused to instruct the jury on voluntary manslaughter as a lesser included offense of murder.
STANDARD OF REVIEW	Whether a lesser-offense instruction is warranted is evaluated by viewing the evidence in the light most favorable to the defendant; refusal is proper only when there is no evidence whatsoever tending to reduce the crime from murder to manslaughter.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Luzenski A. Cottrell v. State of South Carolina

TOPICS

- lesser included offense instructions
- jury instructions
- criminal procedure
- appellate procedure
- sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence, viewed in the light most favorable to Cottrell, supported a jury instruction on voluntary manslaughter as a lesser included offense of murder.
2. Whether the trial court improperly resolved as a matter of law that the officer was effectuating a lawful arrest in a lawful manner when he tackled Cottrell from behind.

HOLDINGS

1. The evidence warranted a voluntary manslaughter instruction because a jury could reasonably find that the officer attempted an arrest or detention through unnecessary violence, providing sufficient legal provocation.
2. The trial court erred by holding as a matter of law that the officer was effectuating a lawful arrest in a lawful manner when he tackled Cottrell from behind.

KEY QUOTATIONS

"The charge need not be given "where it clearly appears that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter." (262)

"The evidence in this case presented a jury question whether the arrest was lawful but effectuated through the victim's unnecessary use of violence, thereby entitling appellant to a voluntary manslaughter charge under Linder." (265)

"Unlike the trial judge, we do not find the evidence is susceptible of only one inference, and we hold he erred by holding that, as a matter of law, the victim was effectuating a lawful arrest in a lawful manner when he tackled appellant from behind." (265)

FACTUAL BACKGROUND

Cottrell encountered two police officers in a Dunkin Donuts parking lot shortly after midnight. After an officer asked for Cottrell's identification and learned that no warrants were outstanding, Cottrell raised his hands and began walking away; the officer followed him, and the evidence differed as to whether the officer tackled Cottrell and whether the officer fired first. Cottrell shot the officer in the face during the ensuing confrontation, exchanged gunfire with the other officer, and fled; the officer later died, while Cottrell was also found to have been shot.

PROCEDURAL HISTORY

A jury convicted Cottrell of murder, assault with intent to kill, resisting arrest with a deadly weapon, and grand larceny. The jury imposed a death sentence for murder, and the trial court imposed concurrent ten-year sentences on the other three charges. The Supreme Court of South Carolina reversed the murder conviction and death sentence and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings following reversal of the murder conviction and death sentence. The opinion does not specify additional instructions.

CASES CITED

- State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000)
- State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007)
- State v. Linder, 276 S.C. 304, 278 S.E.2d 335 (1981)
- State v. Childers, 373 S.C. 367, 645 S.E.2d 233 (2007)
- State v. Wood, 362 S.C. 135, 607 S.E.2d 57 (2004)
- State v. Bell, 374 S.C. 136, 646 S.E.2d 888 (Ct. App. 2007)