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2-27-2014

Summary of Sanchez-Dominguez v. State, 130 Nev. Adv. Op. 10

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Nevada Law Journal

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Recommended Citation

Briggs, Brady, "Summary of Sanchez-Dominguez v. State, 130 Nev. Adv. Op. 10" (2014). *Nevada Supreme Court Summaries*. 17.

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CRIMINAL LAW AND PROCEDURE: FELONY MURDER

Summary

The Court determined two issues: (1) whether the felony murder rule applies to killings which occur only after all of the elements of the underlying felony are complete, and (2) whether the felony murder rule requires that a killing be caused by the commission of the underlying felony.

Disposition

A killing need not take place before a felony is complete in order to qualify as felony murder. The statutory requirement that a felony murder be “committed in the perpetration or attempted perpetration of” certain felonies means simply that the felony and the killing must occur as part of the same continuous transaction.

Factual and Procedural History

On November 13, 2009, Sanchez-Dominguez violated a temporary protective order by entering his wife’s mother’s home, uninvited, and asking to see his wife, who had recently left him. His wife’s relatives, including her mother, two brothers, and two cousins, told Sanchez-Dominguez that his wife was not home and asked him to leave. He refused and continued to demand to see his wife.

When his wife’s cousin moved toward the telephone to call 911, Sanchez-Dominguez drew a gun, fixed it on the man, and ordered him not to move. He then pointed the gun at mother-in-law. At that point, his brother-in-law, Roberto, came downstairs and stood between his mother and Sanchez-Dominguez. Roberto said, “If you’re going to shoot, shoot.” Without hesitation, Sanchez-Dominguez shot Roberto in the chest from point-blank range, killing him.

Sanchez-Dominguez was convicted by a jury on the counts of burglary, aggravated stalking, and murder. The murder was charged as “willful, deliberate, and premeditated murder, and alternatively, as felony murder in the perpetration of a burglary.” Sanchez-Dominguez was sentenced to life imprisonment without parole.

Sanchez-Dominguez now asserts that the district court erred by giving incomplete instructions to the jury regarding felony murder, which permitted the jury to convict Sanchez-Dominguez for felony murder based on a completed felony.

Discussion

The felony murder rule does not require that the killing occur before the completion of the elements of the underlying felony.

¹ By Brady Briggs.

² NEV. REV. STAT. § 200.030(1)(b) (2013).

Sanchez-Dominguez's proffered jury instructions were premised on the incorrect notion that the duration of liability for felony murder cannot extend beyond the completion of the felony. Therefore, the district court did not err in refusing to submit his instructions to the jury.

Nevada law defines first degree felony murder as "a killing that is 'committed in the perpetration or attempted perpetration of' certain felonies, including burglary."² Sanchez-Dominguez proposed a strictly temporal construction of the phrase "in the perpetration of," contending that once a felony is complete, a killing that occurs thereafter does not occur in the perpetration of that felony. Accordingly, because his burglary was complete "once he had entered the family home with the specific intent to commit a felony," he did not kill Roberto in the perpetration of the burglary.

Rooted in the common law, the phrase "in the perpetration of" has been uniformly interpreted by numerous state courts since the late 19th century.³ Those interpretations suggest that felony murder applies to any killing which occurs within the *res gestae* of a felony, meaning before the suspect reaches a place of relative safety from law enforcement. Therefore, "the perpetration of a felony does not end the moment all of the statutory elements of the felony are complete. Instead, the duration of the felony-murder liability can extend beyond the termination of the felony itself if the killing and the felony are part of a continuous transaction."

Accordingly, the Court rejected the argument that a killing which occurs after a burglary is complete cannot be appropriately classified as felony murder. In the case of Sanchez-Dominguez, the killing occurred only moments after the burglary was complete, "while Sanchez-Dominguez remained in the family home uninvited." This is sufficient to support the jury's guilty verdict.

A killing need not be caused by the commission of the underlying felony to fall under the felony murder rule.

Sanchez-Dominguez also argued that Nevada's felony murder statute requires a separate element of direct and immediate causation. However, the Court observed that all that causation requires in a felony murder case is "that the felony and the killing be part of a continuous transaction."⁴ The felony murder rule is premised on strict liability for killings which occur as a result of the commission of a felony, whether that killing is intentional or accidental. Therefore, causation is assumed in the event of an accidental killing, so long as the killing "would not have occurred but for the perpetrator's purposeful decision to cause a felony."

Here, the Court determined that Roberto's death would not have occurred but for Sanchez-Dominguez's choice to commit burglary. Moreover, Roberto's decision to defend his

² NEV. REV. STAT. § 200.030(1)(b) (2013).

³ Bissot v. State, 53 Ind. 408, 411-12 (1876); Dolan v. People, 64 N.Y. 485, 497 (1876); Conrad v. State, 78 N.E. 957, 958-59 (Ohio 1906); State v. Williams, 28 Nev. 395, 82 P. 353 (1905).

⁴ People v. Thompson, 785 P.2d 857, 877 (Cal. 1990).

family was a natural and foreseeable consequence of the burglary. Therefore, causation was established in this case.

Conclusion

A felony murder may occur after the felony upon which it is premised is completed, so long as the killing occurs within the *res gestae* of the felony. Moreover, the felony murder rule's causation requirement is satisfied where the killing would not have occurred but for the commission of the felony. In short, all that is truly required is that the felony and the killing occur as part of a continuous transaction. Here, the burglary and the killing occurred as part of one continuous transaction. Accordingly, the Court affirmed Sanchez-Dominguez's conviction.