Statement for Additional Grounds

June 28, 2016 Pg 18-20

FILED
COURT OF APPEALS
DIV II
2017 JUL 10 PM 1:04
STATE OF WASHINGTON
BY
DEPUTY

Mr Karlsvick: It sort of relates to the court room security, Your Honor, and the way that the defendants are going to be brought in and out of court. In the years that I've been doing trials, we always bring my client in with me through the side doors where theres not a chance of the jurors seeing him. And the way they were brought in this morning -- not to pass any negativity on the jail staff, but the way they were brought in this morning is that the three gentlemen here were brought in down the side hallway there. They were brought past that other room where all the other jurors were sitting, and they were flanked by at least three of the jail staff. I dont know if they saw them or not, but that to me was very concerning, that situation. I was going to ask for -- I know its a tall order, but I was going to ask the court to declare that we should start again on another date with a new jury panel. I dont know what they saw, but I know they were paraded by there or whisked past there flanked by these gentlemen, and it was clear from what I saw they were in custody and were being guarded.

The court: Well, you can ask about that during voir dire. I dont think we need to start on a different day.

This is for Steven Nicolas Russell
Doc# 350124

Case law to back issue brought in (SAG)

Type "Identification Issues"

Supreme court of washington 2009

168 Wn. 2d 857 :: State v. Jaime :: May 14, 2009

(Out Come) Defendants conviction was reversed, and the case was remanded for new trial.

Case Summary

Procedural Posture: Defendant was charged in Yakima County Superior Court, Washington with on count of second degree murder. Defendant was tried in front of a jury in a jailhouse court room and convicted. Defendant appealed. Holding defendants murder trial in a jailhouse courtroom violated his right to due process by eroding the presumption of innocence. Without a factual record that the trial presented particular security concerns, it could not be said that the prejudicial measure of holding the trial in the jail was necessary to further an essential state interest.

Over view: This case came before the court on direct review. The court concluded that holding defendants murder trial in a jailhouse courtroom violated his right to due process by eroding the presumption of innocence. While the court stated that its decision should not be misunderstood to suggest that a jailhouse courtroom may never be used for a jury trial, the record did not support the trial courts decision. While there was some discussion indicating that the defendant presented a security concern and an escape risk, this was based upon unverified representations made by the prosecutor, with no fact finding conducted by the trial court. Moreover, the trial court considered impermissible factors involving convenience in making its decision, as well as general concerns that would be applicable to any defendant who is in custody during trial namely the risk that jurors might see defendant being transported in handcuffs from the jail to the courthouse. Without a factual record that defendants trial presented particular security concerns, it could not be said that the inherently prejudicial measure of holding the trial in the jail was necessary to further an essential state interest.

Headnotes

Constitutional Law > Bill of Rights > Fundamental Rights > Criminal Process > General Overview

Criminal Law and Procedure > Trial > Burdens of Proof > Prosecution

Criminal Law and Procedure > Trial > Defendants Right > Right to Fair Trial

Evidence > Inferences and Presumptions > Presumptions

The presumption of innocence, although not articulated in the constitution, is a basic component of a fair trial under our system of criminal justice. In order to preserve a defendants presumption of innocence before a jury, the defendant is entitled to the physical indicia of innocence which includes the right of the defendant to be brought before the court with the appearance, dignity, and self-respect of a free and innocent man or woman. Measures which single out a defendant as a particularly dangerous or guilty person threaten the defendants constitutional right to a fair trial. Such measures threaten a defendants right to a fair trial because they erode his or her presumption of innocence. these types of court room practices are inherently prejudicial.