

State Supreme Court overturns conviction in Lakewood armored-car guard killing

By Adam Lynn
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Odies Walker enters a courtroom at Pierce County Superior Court in Tacoma on June 4, 2009.

JOE BARRENTINE — Staff photographer file, 2009

Read more here: http://www.thenewstribune.com/2015/01/22/3601311_state-supreme-court-overturns.html?rh=1#storylink=cpy

The Washington State Supreme Court on Thursday overturned the second high-profile Pierce County murder conviction in a week's time, delivering a rebuke to prosecutors for their continued use of overly zealous tactics to win convictions.

In an opinion authored by Justice Mary Yu, the state's high court ordered a new trial for Odies Walker, who'd been convicted of aggravated first-degree murder in the 2009 slaying of armored-car guard Kurt Husted.

Husted, 38, was gunned down and robbed of the money bags he was carrying during a brazen attack at the Lakewood Walmart.

A Pierce County jury found Walker, 47, guilty of masterminding the robbery and driving the getaway car. He was sentenced to life in prison without the possibility of parole.

But Yu wrote that Walker's conviction was tainted by deputy prosecutor Dawn Farina's use of "flagrant, pervasive and prejudicial" statements during her closing argument.

Farina showed the jury a PowerPoint presentation that included more than 100 slides that were headed, "DEFENDANT WALKER GUILTY OF PREMEDITATED MURDER."

Yu pointed out multiple problems with Farina's presentation:

"... it included multiple exhibits that were altered with inflammatory captions and superimposed text; it suggested to the jury that Walker should be convicted because he is a callous and greedy person who spent robbery proceeds on video games and lobster; it plainly juxtaposed photographs of the victim with photographs of Walker and his family, some altered with racially inflammatory text; and it repeatedly and emphatically expressed a personal opinion on Walker's guilt."

Yu went on to say, "... it is regrettable that some prosecutors continue to defend these practices and the validity of convictions obtained by using them."

Pierce County Prosecutor Mark Lindquist was not available for comment Thursday.

Last week, the Supreme Court ordered a new trial for Dorcus Allen, the suspected getaway driver for cop killer Maurice Clemmons. In that case, justices ruled a Pierce County deputy prosecutor misstated the law over and over again during his closing argument.

Other Pierce County deputy prosecutors have been chastised by the Supreme Court for using similar tactics during closing arguments.

In the Walker case, five justices signed Yu's opinion and three others either wrote or signed concurrences. All agreed Farina went overboard in her closing argument.

"I agree with the majority that the prosecutor's closing argument in this case contained so much personal opinion, vouching and inflammatory imagery that we must reverse," Justice Sheryl Gordon McCloud said in her concurring opinion.

The justices seem particularly concerned with a slide Farina included in her PowerPoint presentation that showed Walker and his family at dinner after Husted's murder.

A quotation attributed to Walker, in which he used the N-word, was superimposed over the photo. Walker is African American, Husted was white.

“We agree with that portion of Justice Gordon McCloud’s concurrence noting that some of the state’s PowerPoint slides implicitly encouraged a verdict specifically based on racial prejudice,” Yu wrote in a footnote to the majority opinion.

Gordon McCloud elaborated in her concurrence.

“The problem is the state altered the photo of the black defendant and his black family, at dinner, by superimposing on it a quote highlighting race as some kind of important factor with the moniker, (N-word),” McCloud wrote.

“There is no denying that this word is powerful, gripping and emotional. But it was irrelevant – there was no indication of a racial motive in this case, and indeed, the victim apparently referenced was not even black.”

A new trial date has yet to be scheduled.

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