

# **Appellate Moot Court Collegiate Challenge 2008**

IN RE: State vs. Archibald

## STATEMENT OF THE CASE AND FACTS

The issues before the Court are whether the trial court committed two constitutional violations when it refused to instruct the jury on the defense of duress and when it denied David Archibald (“Petitioner”) the opportunity to reveal the exact sentence reduction that the State’s only witness received in exchange for his testimony.

On July 5, 2008, Petitioner was involved in an armed robbery that resulted in the death of Mr. Gordon Bates. The robbery took place in Lakeville, Tennessee, at Mr. Bates’ jewelry shop, Aristocrat Jewelers, where Mr. Bates also served as lead sales person for the store. On that day, Petitioner distracted Mr. Bates, while Johnnie Good attempted to steal jewelry out of a display case, which contained high-priced watches and diamond bracelets, valued at approximately Ten Thousand Dollars (\$10,000.00) each. Good attempted to place another bracelet in his already stuffed coat pocket when he accidentally activated the store’s alarm system that had been connected into the display case. Mr. Bates realized that Good was attempting to rob his store and immediately intervened. A physical altercation between Mr. Bates and Good ensued, during which, several watches and bracelets fell out of Good’s pocket. According to Petitioner’s testimony, Good demanded that Petitioner pick up the jewelry that had fallen to the ground. Petitioner claimed that Good furiously yelled at him to grab the jewelry and threatened Petitioner by stating, “[d]on’t mess with me David. You know

what happens to guys that mess around with me.” Petitioner then picked up the jewelry claiming that fear of his life and well-being compelled him to comply with Good’s demand. During Good’s altercation with Mr. Bates, Good shot and killed Mr. Bates with his gun. Petitioner testified that Good’s threat and the appearance of the gun seemed to happen simultaneously and that everything happened so fast that he could not recall the exact sequence of events. Petitioner also testified that Good had a short temper and an extremely violent past.

At trial, Petitioner requested that the jury hear an instruction on the defense of duress with respect to the felony murder charge. The trial court denied the request pursuant to W. Tenn. Rev. Stat. §38-404(b), which states that the defense of duress may not be available to the charge of felony murder. The trial court found that the language of West Tennessee’s duress statute precluded the use of that defense to murder. The trial court concluded that West Tennessee’s definition of murder includes felony murder. Therefore, the trial court held that the duress defense is unavailable in felony murder cases. On appeal, Petitioner asserted that the trial court’s failure to instruct the jury on the defense of duress violated his due process rights under the Fourteenth Amendment of the United States Constitution because he was denied the opportunity to present a complete defense. The Court of Criminal Appeals affirmed the trial court’s ruling and found that West Tennessee’s duress statute was ambiguous because of the legislature’s use of the terms “may” and “shall” in two different parts of the statute. The court found that although the language of the duress statute was open to varying interpretations, the intent of the legislature was clear. The court relied on the

legislative history of the statute in determining that the duress defense is not applicable to felony murder.

At the trial, the Petitioner also attempted to reveal to the jury the exact details of the plea agreement between the State and the State's key witness, Hugh Beck ("Beck"). Beck, the getaway driver, was charged with aggravated robbery for his participation in the crime. Beck made an agreement with the State and pleaded guilty to the lesser charge of robbery. Under West Tennessee law, Beck would have been sentenced to not less than eight years for a charge of aggravated robbery, a Class B felony. W. Tenn. Rev. Stat. §28-505(b). Under the plea agreement, however, he agreed to the lesser charge of robbery, a class C felony with a prison term of not less than three years. Beck received a five-year reduction in his sentence as a result of his agreement with the State.

Beck's testimony was crucial to the State's case, as he testified that Petitioner willingly assisted Good in the robbery of Aristocrat Jewelers. On cross-examination, Petitioner revealed to the jury that Beck testified pursuant to a plea agreement with the State and attempted to expose the specifics of the sentence reduction that Beck received in exchange for his testimony. The State objected on the grounds that revealing the exact details of the plea agreement was unnecessary since the Petitioner revealed the existence of a plea agreement. Petitioner argued that revealing the exact sentence reduction a witness receives in exchange for testimony is required under the Sixth Amendment of the United States Constitution and relevant to show the witness' bias and motive to lie. The trial court, however, limited the scope of cross-examination

and prohibited Petitioner from revealing the exact sentence reduction that the witness received in exchange for his testimony.

The appellate court affirmed the trial court's decision finding that the United States Constitution's Confrontation Clause only requires revealing the existence of a plea agreement. The appellate court also found that the trial court did not abuse its discretion and affirmed the decision of the court below. This appeal to the Supreme Court of West Tennessee followed. The following issues to be resolved are as follows:

#### ISSUE ONE

Whether the trial court erred in denying the Petitioner's request for a jury instruction on the defense of duress to the crime of felony murder in violation of the Due Process Clause of the United States Constitution?

#### ISSUE TWO

Whether the Sixth Amendment of the United States Constitution requires the jury to hear evidence of the exact details of a plea bargain made in exchange for a witness's testimony?

In addressing the issues, the pertinent law is limited to the following:

#### CASE LAW

Matthews v. United States, 485 U.S. 58 (1988).

Russello v. United States, 464 U.S. 16 (1983).

United States v. Bass, 404 U.S. 336 (1971).

Tully v. Oklahoma, 730 P.2d 1206 (Okla. 1986).

People v. Anderson, 50 P.3d 368 (Cal. 2002)

United States v. Callipari, 368 F.3d 22 (1st Cir. 2004).

Delaware v. Van Arsdall, 475 U.S. 673 (1986).

United States v. Chandler, 326 F.3d 210 (3d Cir. 2003).

Hoover v. State of Maryland, 714 F.2d 301 (2nd Cir. 1983).

Liparota v. United States, 471 U.S. 419 (1985).

Davis v. Alaska, 415 U.S. 308 (1974).

United States v. Luciano-Mosquera, 63 F.3d 1142 (1st Cir. 1995).

#### CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteenth Amendment states, in pertinent part, “[n]o State shall . . . . deprive any person of life, liberty, or property, without due process of law.” U.S. Const. Amend. XIV.

The Sixth Amendment states, in pertinent part, “[i]n all Criminal prosecutions, the accused shall enjoy the right to . . . . be confronted with the Witnesses against him.” U.S. Const. Amend. VI.

#### STATUTES INVOLVED

W. Tenn. Rev. Stat. § 28-505. Robbery

- (a) Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear. Robbery is a Class C felony. The penalty is a term of imprisonment not less than three (3) years nor more than six (6) years.
- (b) Aggravated robbery is robbery accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon; or where the victim suffers serious bodily injury. Aggravated robbery is a Class B felony. The penalty is a term of imprisonment of not less than eight (8) years but, not to exceed twelve (12) years.

- (c) Especially aggravated robbery is robbery accomplished with a deadly weapon and where the victim suffers serious bodily injury or death. It is a Class A felony. The penalty is a term of imprisonment of not less than fifteen (15) years but, not to exceed twenty-five (25) years.

W. Tenn. Rev. Stat. § 28-303. Murder in the First Degree.

A person commits murder in the first degree if he or she kills another person (1) purposely and with deliberate and premeditated malice, or (2) in the perpetration of or attempt to perpetrate any sexual assault in the first degree, arson, robbery, kidnapping, hijacking of any public or private means of transportation or burglary.

W. Tenn. Rev. Stat. § 28-404. Defenses.

- (a) Duress. The defense of duress shall be available in all criminal cases when (1) the threatening conduct was sufficient to create in the mind of a reasonable person the fear of death or serious bodily harm; (2) the conduct in fact caused such fear of death or serious bodily harm in the mind of the defendant; (3) fear of duress was operating in the mind of the defendant at the time of the alleged act; and (4) the defendant committed the act to avoid the threatened harm.
- (b) The defense of duress may not be available when the crime is murder.
- (c) Necessity. The defense of necessity shall be available in all criminal cases when (1) the act charged as criminal was done to prevent a significant and imminent evil, namely a threat of bodily harm to oneself or another person; (2) there was no reasonable legal alternative to the commission of the act; (3) the reasonably foreseeable harm likely to be caused by the act was not disproportionate to the harm avoided; (4) the defendant entertained a good-faith belief that his act was necessary to prevent the greater harm; (6) the defendant did not substantially contribute to the creation of the emergency.
- (d) The defense of necessity may not be available when the crime is murder.

Special Thanks to the Cecil C. Humphreys School of Law, The University of Memphis, for providing materials that helped in the development of this problem.