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Criminal Law: May Jurors Read Newspapers?

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CRIMINAL LAW: MAY JURORS READ NEWSPAPERS?

Beale v. State, 213 Miss. 476, 54 So.2d 921 (1951)

Defendant, convicted of murder, appealed on the ground that the jury while in the jury room read newspapers and listened to a radio. HELD, listening to the radio and reading newspapers does not constitute reversible error unless it is shown that the defendant's rights were prejudiced by the action. Judgment affirmed.

It was considered proper conduct under early doctrine for a juror to decide the merits of a case on the basis of his personal knowledge of the facts even though the verdict was contrary to evidence presented in court. Because of obvious inequities this doctrine has been decisively rejected. Witnesses now testify to personal knowledge of the facts, and jurors determine the verdict by evidence presented in the trial.[1] Modern practice guarantees an impartial jury, prejudiced by no outside sources and influenced during the trial only by the evidence which the court considers proper for submission to it.[2]

Though all courts hold reading of newspapers in the jury room improper, recent cases support the view that such conduct is not reversible error unless the defendant is prejudiced thereby.[3] It has been held that defendants were prejudiced by jurors' reading newspaper articles and editorials calculated to affect the verdict,[4] and by reports of evidence inadmissible in the trial proceedings.[5] Defendant must not only show that the jurors read the prejudicial newspapers[6] but also that neither he nor his counsel had any knowledge of or consented to the reading.[7]

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[1]3 BL. COMM. *374.

[2]Wynn v. City & Suburban Ry. of Savannah, 91 Ga. 344, 17 S.E. 649 (1893).

[3]United States v. Leviton, 193 F.2d 848 (2nd Cir. 1951); United States v. Pisano, 193 F.2d 355 (7th Cir. 1951); Bratcher v. United States, 149 F.2d 742 (4th Cir. 1945); Brown v. State, 83 Ga. App. 650, 64 S.E.2d 313 (1951); State v. Snowden, 198 La. 1076, 5 So.2d 355 (1941); Strickland v. State, 46 Okla. Cr. 190, 284 Pac. 651 (1930); State v. Weitzel, 157 Ore. 334, 69 P.2d 958 (1937).

[4]Leith v. State, 206 Ala. 439, 90 So. 687 (1921); Capps v. State, 109 Ark. 193, 159 S.W. 193 (1913); State v. Caine, 134 Iowa 147, 111 N.W. 443 (1907); Cartwright v. State, 71 Miss. 82, 14 So. 526 (1893).

[5]United States v. Ogden, 105 Fed. 371 (E.D. Pa. 1900); State v. Peirce, 178 Iowa 417, 159 N.W. 1050 (1916).

[6]United States v. Griffin, 176 F.2d 727 (3d Cir. 1949); Miller v. Kentucky, 40 F.2d 820 (6th Cir. 1930); People v. McKenna, 11 Cal. 2d 327, 79 P.2d 1065 (1938).

[7]Langer v. United States, 76 F.2d 817 (8th Cir. 1935); Styles v. State, 129 Ga.

Defendants have been held not prejudiced in the following instances: jurors read newspapers in the jury box while others were being impaneled and counsel did not object at the time;[8] jurors read about the standing of jurors at the former trial and verdicts thereof;[9] one juror read the prejudicial article but did not communicate contents to others;[10] jurors read items giving details of the daily happenings of the trial of which they were already well-informed;[11] and when there was a lack of proof that the jurors had read the prejudicial articles.[12]

The Florida Court faced a situation in which it was contended that reading of allegedly prejudicial newspapers published previous to trials influenced the entire community in *Shepherd v. State*.[13] Defendants, accused of rape, petitioned the trial court for a change of venue, alleging that they could not obtain a fair and impartial trial because of the publication of certain inflamatory prejudicial articles in newspapers. The trial court denied the petition and the Florida Supreme Court affirmed this decision, indicating that any prejudice present in the minds of the jurors gave way to testimony offered at the trial. The defendants were granted certiorari by the United States Supreme Court, with the result that a change of venue was allowed.[14] Although the majority granted a new trial on the ground of discrimination against Negroes in jury selection, in a concurring opinion Mr. Justice Jackson, with whom Mr. Justice Frankfurter joined, observed that the newspaper reports were so highly prejudicial that the defendants were adjudged guilty before trial.[15]

A Florida statute, which has not been construed by the courts in regard to the reading of newspapers, appears pertinent to the question posed by the instant case.[16] It provides that if the substantial rights of the defendant have been prejudiced the court may grant a new

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425, 59 S.E. 249 (1907).

[8]Hunter v. State, 43 Ga. 484 (1871).

[9]Copeland v. Wabash R.R., 175 Mo. 650, 75 S.W. 106 (1903); Sherwood v. Chicago & W.M. Ry., 88 Mich. 108, 50 N.W. 101 (1891).

[10]State v. Lilja, 155 Minn. 251, 193 N.W. 178 (1923).

[11]Brown v. State, 83 Ga. App. 650, 64 S.E.2d 313 (1951); People v. Fernandez, 3 Cal. App. 689, 86 Pac. 899 (1906).

[12]Kerr v. Lunsford, 31 W. Va. 659, 8 S.E. 493 (1888).

[13]46 So.2d 880 (Fla. 1950).

[14]Shepherd v. Florida, 341 U.S. 50 (1951), 5 U. OF FLA. L. REV. 194 (1952).

[15]Shepherd v. Florida, 341 U.S. 50, 51 (1951).

[16]FLA. STAT. §920.05 (1951).

trial, upon a showing that the jury has received evidence out of court or that any of the jurors have been guilty of misconduct.

In view of this practice of permitting jurors to read nonprejudicial publications, it would appear that Florida is aligned with decisions in other jurisdictions.[17] To obtain a reversal of conviction the defendant should prove (1) that he has been prejudiced by the publication, (2) that the jurors read the prejudicial newspapers, and (3) that the jurors could not render a fair and impartial verdict after having been exposed to the prejudicial matter. If the defendant is successful in establishing these points, a new trial is granted. It may be concluded, therefore, that reading of newspapers in the jury room by Florida jurors does not constitute reversible error unless thereby the defendant is denied his constitutional right of trial by a fair and impartial jury.[18]

G. ELIZABETH TAYLOR

CRIMINAL LAW: PERSONAL JURISDICTION OBTAINED BY KIDNAPING

Frisbie v. Collins, 342 U.S. 509 (1952)

Petitioner, convicted of murder in a Michigan state court, sought a writ of habeas corpus in the federal district court on the ground that his abduction in Illinois by Michigan law enforcement officers and forcible return to Michigan to stand trial violated the Federal Kidnaping Act[1] and his rights under the due process clause of the Fourteenth Amendment. The district court denied the writ on the ground that the manner of acquiring personal jurisdiction is immaterial, but the court of appeals reversed on the authority of the Federal Kidnaping Act.[2] On certiorari, HELD, neither the Federal Kidnaping Act nor the due process clause invalidates respondent's conviction. Judgment of the district court reinstated.

It is settled that an otherwise valid conviction of crime, even

[17]North v. State, ____So.2d____ (Fla. 1952); Shepherd v. State, 46 So.2d 880 (Fla. 1950).

[18]FLA. CONST. Decl. of Rights §11.

[1]18 U.S.C. §1201 (Supp. 1952).

[2]Collins v. Frisbie, 189 F.2d 464 (6th Cir. 1951).