

1972

The State of Utah v. Valentino Archuleta : Brief of Respondent

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IN THE
SUPREME COURT
OF THE
STATE OF UTAH

THE STATE OF UTAH,
Plaintiff-Respondent

vs.

VALENTINO ARCHULETA,
Defendant-Appellant

BRIEF OF RESPONSE

APPEAL FROM A JURY VERDICT
IN THIRD JUDICIAL DISTRICT
FOR SALT LAKE COUNTY, STATE OF UTAH
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IN THE
SUPREME COURT
OF THE
STATE OF UTAH

THE STATE OF UTAH,
Plaintiff-Respondent,

vs.

VALENTINO ARCHULETA,
Defendant-Appellant.

Case No.
12900

BRIEF OF RESPONDENT

STATEMENT OF THE NATURE OF THE CASE

This case is an appeal from a jury verdict of guilty in the Third Judicial District Court, Salt Lake County, State of Utah.

DISPOSITION IN THE LOWER COURT

The appellant, Valentino Archuleta, was found guilty by a jury of the crime of robbery on February 1, 1972, and was sentenced to the Utah State Prison.

RELIEF SOUGHT ON APPEAL

Respondent asks that the jury verdict of guilty be affirmed.

STATEMENT OF FACTS

The statement of facts given in appellant's brief is essentially correct. Appellant admitted lying to the police (T. 69-70). Officer Orrin J. Peck testified that appellant told him he had directed Mr. Sahn to the alley and put his belt around Mr. Sahn's neck because he was afraid Mr. Sahn was going to assault him (T. 85).

The trial was delayed 35 minutes while appellant searched for his own clothing. Defense attorney reported to the court that the clothing in which appellant had been arrested was not available since they were placed in evidence in another case and defense counsel was unable to locate the officer in charge (T. 2).

ARGUMENT

POINT I.

IT WAS NOT PREJUDICIAL ERROR FOR THE COURT BELOW TO OVERRULE APPELLANT'S OBJECTION TO PROCEEDING WITH THE TRIAL WHILE APPELLANT WAS DRESSED AS HE WAS AT THE BEGINNING OF THE TRIAL.

Respondent contends that appellant's clothing at the beginning of the trial was not so indicative of his prisoner status as to prejudice his trial. The trial judge's ruling to that effect should be sustained.

In ruling that appellant's clothing would not be prejudicial to the trial, the court characterized appellant's appearance as follows:

"The court has observed the appearance of Mr. Archuleta and what he is wearing. What I would refer to as a civilian shirt. I don't see anything about that that has to do with the jail. Underneath he has a white T-shirt and is wearing some type of denim overalls. The court is of the opinion that it would not be in any way prejudicial to the trial of this matter and would deny the motion to delay further and we would proceed (T. 3)."

The decision of the trial court not to permit a continuance or further delay but to allow appellant to appear before the jury is a matter for the sound discretion of the trial judge. In *State v. Hartman*, 101 Utah 298, 304, 119 P. 2d 112 (1941), the Utah Supreme Court held that:

"The granting of a continuance in a criminal case is discretionary with the court, and its refusal to grant a continuance is not reversible error unless clearly prejudicial."

Other cases with the same holding are *State v. Fairclough*, 86 Utah 326, 44 P. 2d 692 (1935), and *State v. Williams*, 49 Utah 320, 163 P. 1104 (1917). It is also a matter of the discretion of the court if the delay requested does not rise to the "dignity" of a continuance. 88 C. J. S. Trial, section 45.

Gregory v. United States, 365 F. 2d 203, 205 (8th Cir. 1966), outlines the standard of review for a case in-

volving judicial discretion and the presumption of innocence. In *Gregory*, the defendant was seen by two members of the jury in handcuffs. The United States Court of Appeals for the Eighth Circuit ruled that this was not prejudicial error and said:

“To justify a new trial this alleged error must appear to have seriously affected the fairness of the trial. The burden of proof to sustain this allegation is on the appellant. The handling of the defendant during the trial is best regulated by the trial court and is a matter for its sound discretion. For this court to question the discretion of the trial court, the record needs to show something more than mere fact defendant was handcuffed in the presence of the jury.” (Citations omitted.)

The trial court’s description of defendant indicates that the court found nothing about defendant so indicative of his prisoner status as to prejudice him. In cases where convictions have been reversed for defendant’s appearance in prison clothing, the prisoner status of the defendant has been indicated by words or numbers printed on the clothes. The importance of this is pointed out in the case of *Miller v. State*, 457 S. W. 2d 848, 849 (Ark. 1970). The Arkansas Supreme Court cites an excerpt from the trial record containing the following:

“Mr. Robinson: You can readily tell they are prison clothes with his numbers on. I think the court can see the numbers.

“The Court: I can see the numbers, but I haven’t got a shirt I can let him have.”

The distinction between clothes bearing evidence of appellant's prisoner status and clothes worn in jail is also clearly pointed out in the case of *Eaddy v. People*, 115 Colo. 488, 174 P. 2d 717, 718 (1946). The court reversed a conviction because the defendant appeared before the jury "branded" with the words "County Jail" on his clothes. The court said:

"If there is any substantial reason why a defendant should not stand trial in garb so worn or procured by him, then, after opportunity to procure proper clothing he may be tried in any fit and decent clothing furnished by the jailor, and conventionally made overalls of customary striped or other material should be adequate. The decision as to proper clothing should be within the sound discretion of the trial court which has the custody of the defendant; but compelling him to wear clothing throughout his trial bearing the words 'County Jail' in large letters raises a more serious question. Was that an abuse of discretion?"

Also in *Hernandez v. Beto*, 443 F. 2d 634 (5th Cir. 1971), the defendant had "Harris County Jail" stamped on his clothing. In *Rose v. State*, 450 P. 2d 527 (Okl. Cr. 1969), the Oklahoma Court of Criminal Appeals ruled that it is not sufficient merely to claim prejudice because the defendant was tried in jail clothes. The court held the record must show how the defendant was prejudiced by showing the kind of clothing he was wearing. Appellant has not shown that his appearance as described in the record has prejudiced his case or destroyed for him the presumption of innocence.

CONCLUSION

For the reasons stated above, the decision of the trial court to overrule appellant's objection to proceeding was not prejudicial error. Respondent respectfully submits that the jury verdict of guilty should, therefore, be affirmed.

Respectfully submitted,

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