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State v. Gumkowski, 223 A.3d 321 (R.I. 2020)

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Criminal Law. *State v. Gumkowski*, 223 A.3d 321 (R.I. 2020). The overwhelming weight of circumstantial evidence that a defendant committed a murder, combined with some physical evidence, is enough for a jury to convict a defendant of said murder. This evidence should be considered in full when assessing the defendant's motion for a new trial.

FACTS AND TRAVEL

On May 11, 2011, defendant Matthew Gumkowski (Gumkowski) allegedly slashed the throat and burned the home of Michael DiRaimo (DiRaimo).¹ Based on circumstantial evidence, including telephone records, cell-tower pings, text messages between the defendant and the decedent, and finding DiRaimo's cellphone in Gumkowski's possession after the murder, the State charged Gumkowski with first-degree murder and first-degree arson.² Gumkowski was tried in Providence County Superior Court, and the jury found Gumkowski guilty on both counts.³

Gumkowski immediately filed a motion with the Superior Court for a new trial pursuant to Rule 33 of the Superior Court Rules of Criminal Procedure.⁴ The trial justice heard the motion on July 12, 2016, and denied the motion in an oral decision on the same day.⁵ The Superior Court sentenced Gumkowski to life imprisonment for first-degree murder followed by forty-five years for first-degree arson.⁶

Gumkowski appealed to the Supreme Court, challenging the trial justice's denial of his motion for a new trial.⁷ In his petition, Gumkowski argued that the trial justice was wrong in her denial of

1. *State v. Gumkowski*, 223 A.3d 321, 323 (R.I. 2020).

2. *Id.*

3. *Id.* at 328.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

his motion for a new trial because the verdict was against the weight of the evidence.⁸ In particular, Gumkowski argued that the evidence did not support the conclusion that he was the perpetrator and did not support a finding of premeditation beyond a reasonable doubt.⁹ The Supreme Court of Rhode Island affirmed the judgment.¹⁰

ANALYSIS AND HOLDING

Upon review of the appeal, the Court turned to the standards of review for Rule 33 motions, which are found in *State v. Johnson*.¹¹ In relevant part, the Court in *Johnson* held that a trial justice, when presented with a Rule 33 motion, “acts as a thirteenth juror and exercises independent judgment on the credibility of witnesses and on the weight of the evidence.”¹² The judge thereby conducts an independent assessment of the entirety of the evidence to determine whether she would have reached a different conclusion than the jury.¹³ In the case of Gumkowski, the Court determined that the trial justice had correctly applied and analyzed Gumkowski’s motion by the *Johnson* standard.¹⁴ The Court therefore upheld the trial court’s denial of the motion.¹⁵

The Court then turned to Gumkowski’s argument that the weight of the evidence did not support finding that he was the perpetrator of the murder and arson. Gumkowski argued that no reasonable jury could find that the text messages proved that he had motive to kill DiRaimo, and that a reasonable jury could only conclude that his possession of DiRaimo’s cellphone was at best proof of theft.¹⁶ Furthermore, Gumkowski maintained that the excerpts of text messages between Gumkowski and DiRaimo presented by the State were misleading because they caused the jury to overlook the entirety of DiRaimo’s text-messaging history.¹⁷

8. *Id.*

9. *Id.* at 329.

10. *Id.* at 332.

11. *Id.* at 329 (citing *State v. Johnson*, 199 A.3d 1046, 1051 (R.I. 2019)).

12. *Johnson*, 199 A.3d at 1050–51.

13. *Id.* at 1051.

14. *Gumkowski*, 223 A.3d at 329.

15. *Id.*

16. *Id.*

17. *Id.*

The Court disagreed with Gumkowski on all three fronts and instead agreed with the trial justice who held that the weight of the evidence was sufficient.¹⁸ The Court agreed with the trial judge that from the text messages “the jury reasonably inferred as does the [c]ourt the [d]efendant went to DiRaimo’s house, killed him, set the house on fire to cover up the murder, took the phone and went home, and it was indeed the [d]efendant who took the phone.”¹⁹ Ultimately, after reviewing the complete collection of text messages and phone records between Gumkowski and DiRaimo, the Court concurred that the pings on DiRaimo’s cellphone matched the State’s timeline for the murder and arson and that the circumstantial evidence was overwhelmingly in support of placing an increasingly angry Gumkowski at DiRaimo’s residence at the time of the murder and fire.²⁰ Finally, the Court agreed with the trial justice that neither the judge nor the jury were misled by the State’s emphasis on the communications between Gumkowski and DiRaimo.²¹

Finally, Gumkowski argued that the verdict was against the weight of the evidence because the evidence presented at trial could not support a finding of premeditation.²² His reasoning was threefold: first, there was no evidence of planning; second, no reasonable juror could have found premeditation in the text messages; and third, the defensive wounds found on DiRaimo’s hands disproved the classification of first-degree murder.²³ The Court agreed with the trial judge that the violence of the crime combined with the wounds to the decedent’s hands made it likely that these were defensive wounds and indicative of a premeditated murder.²⁴

The Court agreed noted, as had the trial judge, that evidence of a plan is not required to prove premeditation, so his first argument did not hold water.²⁵ Furthermore, as the trial judge had remarked, “[t]he evidence was overwhelming that someone committed first degree murder in the killing of Michael DiRaimo.

18. *Id.* at 329–30.

19. *Id.* at 330 (internal quotations omitted).

20. *Id.* at 331.

21. *Id.*

22. *Id.*

23. *Id.* at 331–32.

24. *Id.* at 332.

25. *Id.* (citing *State v. Gillespie*, 960 A.2d 969, 977 (R.I. 2008)).

His throat was slashed almost from ear to ear. It was particularly malicious.”²⁶ Accordingly, the Court upheld the trial justice’s rulings, concluded that the jury’s findings were reasonable, and determined that the weight of the evidence fully supported the conviction.²⁷

COMMENTARY

Murder in the first degree is one of the most heinous crimes addressed by our court system, and the burden of proof is accordingly heavy. In order to find a defendant guilty, the jury must find that the state proved the defendant’s guilt beyond a reasonable doubt. This is why conviction upon circumstantial evidence deserves the utmost scrutiny. In her review of Gumkowski’s motion for a new trial, the trial justice remarked, “[t]he evidence was overwhelming that *someone* committed first degree murder in the killing of Michael DiRaimo. . . . It was particularly malicious.”²⁸ It could be argued that the evidence, being entirely circumstantial, did not meet the “beyond a reasonable doubt” standard.

Likewise the distinction between murder in the first and second degrees sits on a hair’s edge: “[f]irst-degree murder requires that the defendant harbored a more-than-momentary intent to kill prior to committing the homicide.”²⁹ Accordingly, “[t]he premeditation necessary to establish first-degree murder must have existed for some appreciable length of time before the killing; it must have existed for more than just a moment.”³⁰ These incredibly fine distinctions, distinctions that can change the course of a person’s life, are almost too ephemeral to be ascertained with only circumstantial evidence. The violence of the crime has been established, but it could be argued that the defendant’s *mens rea* has not been sufficiently established. However, in this case, both the trial justice and the Rhode Island Supreme Court held that the evidence was strong enough to implicate the defendant and prove him guilty of murder in the first degree.

26. *Id.*

27. *Id.*

28. *Id.* (emphasis added).

29. *Gillespie*, 960 A.2d at 977.

30. *State v. Amazeen*, 526 A.2d 1268, 1271 (R.I. 1987).

CONCLUSION

The Rhode Island Supreme Court held that, where overwhelming circumstantial evidence supports a finding that a defendant was the perpetrator of a crime, a trial court does not err in denying a defendant's motion for a new trial under Rule 33 of the Rhode Island Superior Court Rules of Criminal Procedure. The Court further held that evidence of defensive wounds on a victim's hands, combined with a violent and fatal attack, can support a finding of premeditation.

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