



State v. Hurst (N.C. 2006)

Court: North Carolina Supreme Court

Citation: 360 N.C. 181

Docket Number: 363A04

Date Decided: January 27, 2006

STATE OF NORTH CAROLINA v. JASON WAYNE HURST

No. 363A04

FILED: 27 JANUARY 2006

1. Jury--motion for mistrial--prospective juror brought newspaper with trial into jury room during jury selection--admonition to

The trial court did not abuse its discretion in a first-degree murder defendant's motion for a mistrial based on the fact that a prospective alternate newspaper article dealing with the trial into the jury room during jury selection. none of the twelve jurors selected for the sitting panel were in the jury room article appeared there, and defendant had not shown the substantial and irreparable prejudice required by N.C.G.S. § 15A-1061 for declaration of a mistrial; (2) the trial court's denial of the motion was not so arbitrary that it could not have been the result of a reasoned decision; (3) the original jury was not tainted and its subsequent denial of defendant's motion was not so arbitrary that it could not have been the result of a reasoned decision; (4) the trial court's questioning was sufficient to support its findings that the regular jury understood the article and was fully adequate under our law; (5) none of the alternate jurors was in the deliberations at defendant's trial, and thus, even if alternate jurors were in the jury room, any resulting taint was immaterial and caused defendant no prejudice; (6) defendant claiming error in the trial court's admonitions pursuant to N.C.G.S. § 15A-1061 in order to preserve the issue for appeal, and defendant acknowledges that he failed to establish that he suffered prejudice; and (7) defendant failed to establish that he suffered prejudice from the failure of the trial court to admonish the jury when the trial court's admonition specifically advised the prospective jurors that if they were selected for the jury, they should read media reports about the case.

2. Sentencing--capital--mitigating circumstances--no significant history of criminal activity--failure to give instruction

The trial court did not err by failing to submit the statutory mitigating circumstance under N.C.G.S. § 15A-2000(f)(1) that defendant has no significant history of criminal activity and by instead submitting a similar nonstatutory mitigating circumstance to the jury. Defendant that prior to this offense the defendant had no significant history of criminal activity, because: (1) although a trial court's failure to submit a statutory mitigating circumstance that is supported by sufficient evidence is prejudicial error unless the State can show that the error was harmless beyond a reasonable doubt, no juror found this nonstatutory mitigating circumstance in light of the court's correct oral articulation of the mitigating circumstance provision to the jury of written copies of the instructions, its general instruction to the jury did not find the circumstance, and the additional specific wording in the instruction that none of the jurors found this particular mitigating circumstance to exist; (2) the doctrine of invited error does not apply, a whole record review will necessarily consider the parties' positions as to whether the instruction should have been submitted; (3) defendant asked the trial court not to instruct on the (f)(1) statutory mitigating circumstance; (4) the evidence presented at the trial sufficiently supported the trial court's finding that no rational jury could find that defendant's criminal activity was insignificant; and (5) State v. Rouse, 339 N.C. 59 (1994), conflicts with other decisions of the Supreme Court's holding in this case to the effect that on (f)(1) instruction.

Supreme Court's holding in this case to the effect that an (1)(1) instruction
basis of any relevant evidence in the record, no matter how derived or pres

3. Sentencing--capital--mitigating circumstances—age at time of c

The trial court did not err in a first-degree murder case by failing to
& 15A-2000(f)(7) mitigating circumstances to the jury concerning defendant

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