

WEDNESDAY, MARCH 25, 2009
9:00 A.M.

NO. 1

#24531

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

DAPHNE ANTRANETTE WRIGHT,
Defendant and Appellant.

Ms. Traci Smith
Office of the Minnehaha
County Public Defender
Minnehaha County Annex Bldg
413 N Main Avenue
Sioux Falls SD 57104
Ph: 367-4242

(FOR APPELLANT)

Ms. Meghan N. Dilges
Assistant Attorney General
1302 E Hwy 14 Ste 1
Pierre SD 57501-8501
Ph: 773-3215

(FOR APPELLEE)

The Honorable Bradley G. Zell
Second Judicial Circuit
Minnehaha County

(CR 06-961)

20-20-10

LEGAL ISSUES

I.

WHETHER DAPHNE WRIGHT WAS UNCONSTITUTIONALLY DENIED HER RIGHT TO COUNSEL DURING QUESTIONING:

- (a) Was Ms. Wright "in custody" for purposes of Miranda?
- (b) Was Ms. Wright denied her 5th Amendment right to counsel?
- (c) Were Ms. Wright's statements involuntary?

The trial court found that Ms. Wright was not "in custody" for purposes of Miranda and her right to the presence of an attorney was not violated. The trial court further found Ms. Wright's statements were voluntary.

Relevant Cases: Edwards v. Arizona, 452 U.S. 973, 101 S.Ct. 3128, 68 L.Ed2d 378 (1981); State v. Hoadley, 2002 SD 109, 651 N.W.2d 249; State v. Tuttle, 2002 SD 94, 650 N.W.2d 20.

Relevant Statutes: U.S. Const. Amend. 5 & 14; S.D. Const. Art. VI, Section 9.

II.

WHETHER THE TRIAL COURT ERRED IN DENYING DAPHNE WRIGHT'S REQUEST FOR CONSECUTIVE INTERPRETATION.

The trial court held that although the consecutive method of interpretation would be of greater assistance to the Defendant, it was not required.

Relevant Cases: Tennessee v. Lane, 541 U.S. 509, 124 S.Ct. 1978 (2004); United States ex. rel. Negron v. New York, 434 F.2d 386 (C.A.N.Y. 1970)

Relevant Statutes: 42 U.S.C. § 12101(a)(7); Title II Americans with Disabilities Act; S.D.C.L. 23A-39-1.

III.

WHETHER THE TRIAL COURT ERRED IN DENYING DAPHNE WRIGHT THE ASSISTANCE OF A CERTIFIED DEAF INTERPRETER DURING THE PROCEEDINGS.

The trial court held that while the Certified Deaf Interpreter would be beneficial for purposes of understanding the technical concepts and abstract issues that may arise when communicating with her attorneys in anticipation of trial, those accommodations were not necessary in the courtroom setting. (2/14/07, afternoon session, p. 27)

Relevant Cases: Linton v. State, --- SW3d ---, 2007 WL 2323929; People v. Rivera, 125 Misc.2d 516, 480 N.Y.S.2d 426; People v. Williams, 331 Ill.App.3d 662, 771 N.E.2d 1095.

Relevant Statutes: 42 U.S.C. § 12101(a)(7); Title II Americans with Disabilities Act; S.D.C.L. 23A-39-1.

IV.

WHETHER THE SYSTEM OF SELECTING JURORS DENIED THE DEFENDANT DUE PROCESS OF LAW UNDER THE SIXTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION, AND ARTICLE VI, SECTION 7 OF THE SOUTH DAKOTA CONSTITUTION.

The trial court held that the group of Black potential jurors was not fairly represented in the jury pool, however the under-representation was not the result of a systematic exclusion of any particular group from the jury selection process.

Relevant Cases: State v. Aesoph, 2002 SD 71, 647 N.W.2d 743; St. Cloud v. Class, 550 N.W.2d 70 (1996); State v. Helmer, 545 N.W.2d 471 (1996).

Relevant Statutes: S.D.C.L. § 16-13-10.1; S.D.C.L. §16-13-10.2.

V.

WHETHER THE TRIAL COURT ERRED IN ADMITTING EVIDENCE RELATIVE TO A JANUARY 27TH, 2006, ALTERCATION BETWEEN DAPHNE WRIGHT AND HER GIRLFRIEND, SALLIE COLLINS.

The trial court admitted the evidence.

Relevant Cases: State v. Owen, 2007 SD 21, 729 N.W.2d 356; State v. Wright, 593 N.W.2d 792 (S.D. 1999); State v.

Steele, 510 N.W.2d 661 (S.D. 1994).

Relevant Statutes: S.D.C.L. § 19-12-4; S.D.C.L. § 19-12-5.

VI.

WHETHER THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE JURY VERDICT FINDING THE DEFENDANT GUILTY OF FELONY MURDER.

The trial court held there was sufficient evidence.

Relevant Cases: Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); United States v. Warner, 441 F.2d 821 (1975).

Relevant Statutes: S.D.C.L. § 22-19-1.

VII.

WHETHER THE KIDNAPPING CONVICTION SHOULD BE VACATED FOR VIOLATION OF THE DOUBLE JEOPARDY CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

The trial court upheld the jury's verdict.

Relevant Cases: Blockburger v. United States, 284 U.S. 299 (1932); State v. Frazier, 164 P.3d 1 (N.M. 2007); Whalen v. United States, 445 U.S. 684, 100 S.Ct. 1432, 63 L.Ed.2d 715 (1980)

Relevant Statutes: U.S. Const. Amends 5 & 14; S.D.C.L. 22-16-1; S.D.C.L. 22-16-4(2)).

VIII.

WHETHER THERE WAS SUFFICIENT EVIDENCE OF PREMEDITATION TO SUPPORT THE JURY VERDICT FINDING THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE.

The trial court held there was sufficient evidence.

Relevant Cases: Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); State v. Owens, 643 N.W.2d 735 (2002).

Relevant Statutes: S.D.C.L. § 22-16-4; S.D.C.L. § 22-16-5

IX.

WHETHER THE CUMULATIVE ERRORS OF THE TRIAL COURT DENIED THE DEFENDANT HER RIGHT TO A FAIR TRIAL PURSUANT TO ARTICLE VI, SECTIONS 2 AND 7 OF THE SOUTH DAKOTA CONSTITUTION AND THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION.

The trial court held in the negative.

Relevant Cases: State v. Aesoph, 2002 SD 71, 647 N.W.2d 743; McDowell v. Solem, 447 N.W.2d 493 (S.D. 1986); State v. Bennis, 457 N.W.2d 843 (S.D. 1990).

Relevant Statutes: U.S. Const. Amends 5, 6, & 14; S.D. Const. Art. VI, Sections 2 & 7.