No. 21-_____

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER NATHANIEL **BROWN**,

Petitioner,

vs.

STATE OF **FLORIDA**,

Respondent.

TABLE OF APPENDICES

2020 WL 3637601

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION IN THE PERMANENT LAW REPORTS. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

District Court of Appeal of Florida, First District.

Christopher Nathaniel BROWN, Appellant,
v.
STATE of Florida, Appellee.

No. 1D18-5205
|
July 6, 2020

Synopsis

Background: Defendant was convicted in the Circuit Court, 4th Judicial Circuit, Duval County, Steven B. Whittington, J., of second-degree murder. Defendant appealed.

[Holding:] The District Court of Appeal, Rowe, J., held that certified copy of victim's judgment and sentence for murder and armed robbery was inadmissible at trial to support defendant's self-defense claim.

Affirmed.

West Headnotes (2)

[1] **Criminal Law**

110Criminal Law

Certified copy of victim's judgment and sentence for murder and armed robbery was inadmissible at trial on charge of second-degree murder to corroborate defendant's testimony that he knew victim had committed murder and armed robbery; although defendant sought to introduce certified copy to support theory of self-defense, it was not relevant to defendant's state of mind given that no evidence showed that defendant knew about judgment and sentence. Fla. Stat. Ann. §§ 90.405(2), 90.404(1)(b)(1).

[2] **Criminal Law**

110Criminal Law

A trial court has wide discretion concerning the admission of evidence, and, unless an abuse of discretion can be shown, its

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rulings will not be disturbed on appeal.

On appeal from the Circuit Court for Duval County. Steven B. Whittington, Judge.

Attorneys and Law Firms

Andy Thomas, Public Defender, and Glen P. Gifford, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Quentin Humphrey, Assistant Attorney General, Tallahassee, for Appellee.

Opinion

Rowe, J.

*1 Christopher Nathaniel Brown appeals his judgment and sentence for second-degree murder. He claims that the trial court erred in four respects: 1) by applying the incorrect standard when ruling on his motion for Stand-Your-Ground immunity; 2) by excluding a certified copy of the victim's judgment and sentence for murder and armed robbery; 3) by incorrectly instructing the jury on justifiable use of deadly force; and 4) by denying his motion for continuance. Brown's first claim of error fails under the Florida Supreme Court's recent decision in *Love v. State*, 286 So. 3d 177 (Fla. 2019). And we find no error in Brown's remaining claims. We write only to address his second claim.

Brown was charged with second-degree murder after shooting and killing a man outside a convenience store. At trial, Brown sought to introduce the victim's certified judgment and sentence for murder and armed robbery to support his theory of self-defense. Brown argued that the evidence was relevant to corroborate his testimony that he knew that the victim committed murder and armed robbery.

The State did not object to Brown's testimony about his knowledge of the murder and armed robbery committed by the victim. The State conceded that Brown's testimony about specific acts of violence by the victim was relevant to show Brown's state of mind. The State also did not object to testimony on the victim's reputation for violence. But as to the victim's certified judgment and sentence, the State argued that the evidence was unfairly prejudicial and not admissible as evidence of specific acts by the victim.

The trial court ruled that it would allow Brown to testify that he knew that the victim committed murder and armed robbery because the testimony was relevant to show Brown's state of mind. But the trial court ruled that it would not admit evidence of the certified judgment and sentence. The trial court observed that although the victim was

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convicted, the judgment and sentence did not prove that Brown knew about it, and thus the evidence did not go to Brown's state of mind at the time of the shooting.

Following the trial court's ruling, Brown testified that he knew that the victim had committed murder and armed robbery. The jury returned a verdict finding Brown guilty as charged for second-degree murder. This timely appeal follows.

[1] [2]A trial court has wide discretion concerning the admission of evidence, and, unless an abuse of discretion can be shown, its rulings will not be disturbed. *See* Hudson v. State, 992 So. 2d 96, 107 (Fla. 2008). Brown argues that the trial court abused its discretion by excluding evidence of the victim's certified judgment and sentence. He asserts that the evidence was relevant and corroborated his testimony that he knew that the victim committed murder and armed robbery.

Under section 90.405(2) of the Florida Evidence Code, "[w]hen character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may be made of specific instances of that person's conduct." And section 90.404(1)(b)(1) of the evidence code, with some limitations, allows the defendant to offer "evidence of a pertinent trait of character of the victim of the crime." In applying these evidentiary rules, the Florida Supreme Court has held that a defendant's testimony about specific acts of violence by a victim is relevant to show "the reasonableness of the defendant's apprehension to support a self-defense claim." *State v. Smith*, 573 So. 2d 306, 318 (Fla. 1990). But as for evidence that is corroborative of the defendant's testimony about the victim's specific acts of violence, the court observed that third-party testimony about those acts "is not relevant because it sheds no light on the defendant's state of mind." *See id.* The court pointed out that reputation evidence may be relevant to reflect the defendant's state of mind, but specific act evidence is not relevant. *See id.* Even so, the court held that third-party testimony to corroborate the defendant's testimony concerning specific acts of violence by the victim may be admissible in limited circumstances—where it "is first shown that the defendant knew about the very same acts of violence." *Id.* But the court admonished that this type of evidence should "be admitted cautiously in light of the need to limit evidence of specific acts because, *inter alia*, a jury may tend to give the evidence too much weight, or it may sidetrack the jury's focus." *Id.*

***2** Brown testified that he knew the victim committed murder and armed robbery. He did not seek to admit third-party testimony to corroborate his testimony concerning specific acts of violence by the victim. Instead, Brown sought to admit the victim's certified judgment and sentence as corroborative evidence. The trial court declined to admit the certified judgment and sentence. The court found relevant Brown's testimony that he knew the

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victim committed murder and armed robbery. But the court observed that no evidence showed that Brown knew about the certified judgment and sentence. And so, the trial court excluded the certified judgment and sentence from evidence, finding it was not relevant to Brown's state of mind.

We find no abuse of discretion by the trial court in excluding the certified judgment and sentence, particularly given the Florida Supreme Court's admonition that trial courts are to exercise caution when admitting corroborative evidence of specific acts. *See id.* Brown's judgment and sentence are Affirmed.

Ray, C.J., and Tanenbaum, J., concur.

All Citations

--- So.3d ----, 2020 WL 3637601, 45 Fla. L. Weekly D1608

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APPENDIX: B

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

August 13, 2020

CASE NO.: 1D18-5205
L.T. No.: 16-2014-CF-011861-AXXX

Christopher Nathaniel Brown v. State of Florida

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion docketed July 14, 2020, for rehearing and rehearing en banc is denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Hon. Andy Thomas, PD
Glen P. Gifford, APD

Hon. Ashley Moody, AG
Robert Quentin Humphrey, AAG

th

KRISTINA SAMUELS, CLERK

APPENDIX: C

Filing # 114446944 E-Filed 10/05/2020 03:42:36 PM

Supreme Court of Florida

MONDAY, OCTOBER 5, 2020

CASE NO.: SC20-1275
Lower Tribunal No(s).:
1D18-5205;
162014CF011861AXXXMA

CHRISTOPHER NATHANIEL BROWN vs. STATE OF FLORIDA

Petitioner(s) Respondent(s)

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

POLSTON, LABARGA, LAWSON, MUÑIZ, and COURIEL, JJ., concur.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

db
Served:

GLEN P. GIFFORD
ROBERT Q. HUMPHREY
HON. STEVEN B. WHITTINGTON, JUDGE
HON. KRISTINA SAMUELS, CLERK
HON. RONNIE FUSSELL, CLERK