



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. EASTON COURTNEY MURRAY
STATE OF ARIZONA v. CLAUDIUS C. MURRAY
CR-19-0368-PR/CR-20-0008-PR (Consolidated)**

PARTIES:

Petitioners/Defendants: Easton Courtney Murray (“EM”) and Claudius C. Murray (“CM”)

Respondent: The State of Arizona (“the State”)

FACTS:

Underlying Facts. One evening in December 2016, EM and CM went to the Tucson apartment of OC, a friend and one of CM’s former roommates. CM was carrying a .22-caliber rifle, and EM was holding a black bag. According to OC’s later trial testimony, they wanted OC to store something for them. OC could not see what was in the bag but thought it contained marijuana. OC refused and asked them to leave. He later testified that EM told him to “stop acting like a b***h,” and then pulled a Taser out of his pocket and shocked him with it.

OC testified that he then “grabbed” EM and CM tried to get OC to let EM go, leading to a general melee outside the door to OC’s apartment. According to OC’s later trial testimony, EM told CM to “shoot him, shoot the boy.” OC later testified that CM then pointed the gun at him and shot him in the leg. OC retreated into his apartment, and EM and CM ran off. OC’s next-door neighbor testified at trial that he heard a scuffle as well as an argument in a foreign language, saw two men trying to force their way into OC’s apartment, and eventually heard multiple shots fired. He admitted, however, that he did not understand what the men were saying and never saw their faces.

OC was taken to a hospital, which treated his bullet wound. When the police conducted a search of OC’s apartment, they found an eight-pound bale of marijuana, scales, cell phones, and some packing and shipping materials. OC testified at trial that the marijuana was not his, and EM and CM used his apartment to store their marijuana and had previously brought over the scales and the shipping and packaging items.

Trial. When EM and CM were apprehended, the State charged them with aggravated assault with a deadly weapon or dangerous instrument. Among other things, the charged offense required proof that the defendants “[i]ntentionally, knowingly or recklessly caus[ed] . . . physical injury to another person.” A.R.S. § 12-1203(A)(1). EM and CM were tried together and, at trial, OC was the only witness who testified about the altercation’s details. Both OC and the neighbor testified consistent with the testimony described above. Neither EM nor CM testified. Among other things, EM and CM argued that they were not guilty because the shooting was accidental.

At the end of trial, the court instructed the jury on “reasonable doubt,” explaining (among other things) that “[p]roof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt.” It further explained that “on the other hand, [if] you think there is real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.”

In the rebuttal portion of closing argument, the prosecutor made the following argument:

So here is how to think when you might hear somebody say back there, well, I think one or both defendants might be guilty but I'm not sure it's beyond a reasonable doubt. Now, stop and ask yourself another question at that point. Why did I just say that? *Why did I just say that I think the defendants might be guilty?* You are a fair and impartial juror. *If you are thinking that, if you are saying that, is it not proof that you have been persuaded by the evidence in the case beyond a reasonable doubt?* Because why else would you say that were you not convinced by the State's evidence? So when you hear yourself say that, ask yourself the second question why, why do I think he is guilty? Because he is guilty because you have been convinced by the State's case beyond a reasonable doubt.

(Emphasis added). Neither EM's counsel nor CM's counsel objected to the prosecutor's argument and, after the prosecutor finished his rebuttal, the court did not comment on or correct the statement. Ultimately, the jury found both EM and CM guilty of aggravated assault as charged.

Court of Appeals. EM and CM filed separate appeals, and both argued that the prosecutor committed reversible error by saying that the State satisfied the "reasonable doubt" standard if it showed that the defendants "might" be guilty. But because their counsel did not object to the prosecutor's statement when he made it, both appellate panels ruled that their review was limited to determining whether the prosecutor's statement constituted fundamental, prejudicial error.

In EM's appeal, the panel agreed that the prosecutor misstated the reasonable-doubt standard. The majority, however, ruled that because the trial court had earlier given the jury an accurate instruction on the subject and because the evidence of guilt was great, it did not "find a reasonable likelihood the [prosecutor's] argument could have affected the verdict in this case or otherwise deprived [EM] of a fair trial," and therefore did not find fundamental error. In contrast, the dissent argued that the prosecutor's misstatement constituted fundamental, prejudicial error, especially in light of the fact that the misstatement occurred during rebuttal and the evidence against EM depended heavily on his accuser's credibility, which even the trial court questioned.

In CM's appeal, the panel agreed with EM's appellate panel that the prosecutor's restatement of the reasonable-doubt standard was "a gross, improper misstatement of the law." Nonetheless, it concluded that it did not constitute "fundamental error requiring reversal" because the trial court properly instructed the jury on reasonable doubt and properly instructed them that "what the lawyers say is not evidence," and because the Court of Appeals was required to presume that jurors follow the court's instructions.

EM and CM then filed separate petitions for review to the Supreme Court, which consolidated the two cases when it granted review.

ISSUE:

The Supreme Court has asked the parties to address the following issue: Did the prosecutor's misstatement of the reasonable doubt standard during rebuttal argument constitute fundamental, prejudicial error?

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