

**Summary of SC90830, *State of Missouri v. Eric Winfrey***

Appeal from St. Charles County, Judge Lucy Decker Rauch

Argued and submitted Sept. 16, 2010; opinion issued April 12, 2011

**Attorneys:** Winfrey was represented by Melinda K. Pendergraph of the public defender's office in Columbia, (573) 882-9855; and the state was represented by Jayne T. Woods of the attorney general's office in Jefferson City, (573) 751-3321.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A man appeals his conviction for first-degree murder and first-degree robbery. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri reverses the trial court's judgment and remands (sends back) the case, holding the trial court abused its discretion in sustaining the state's hearsay objection to defense counsel's proposed question to a witness about whether the witness had previously admitted to committing the murder. The witness's answer was relevant to impeach his credibility, and there is a reasonable probability that the trial court's refusal to allow this proposed cross-examination affected the outcome of the trial.

**Facts:** In June 2004, a delivery driver found the manager of a storage facility in St. Charles fatally shot. The manager died from a single gunshot wound to the back of his head from a .38 or .357 caliber bullet. During their investigation of the scene, police discovered that both security tapes for the day were missing from the security system's VCRs and that \$395 in cash was missing from the register. The following day, an officer interviewed Eric Winfrey, who previously lived in an apartment above the facility. During the course of the interview, Winfrey said he was several thousand dollars in debt and had tried, but failed, to obtain a gun. Police later learned that Winfrey successfully had obtained a gun from a friend. The state subsequently charged Winfrey with first-degree murder and first-degree robbery. At trial, two witnesses testified that Winfrey had procured a .38 caliber handgun. A prison informant testified that Winfrey had admitted to shooting the manager, whom Winfrey said owed him money, and had thrown the gun into a river. Ultimately, the jury convicted Winfrey on both charges. The court sentenced Winfrey to consecutive terms of life in prison without the possibility of probation or parole for the murder conviction and life in prison for the robbery conviction. He appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** (1) The trial court abused its discretion in sustaining the state's hearsay objection to defense counsel's proposed question to a witness about whether the witness previously had admitted to murdering the manger. At trial, defense counsel stated he had a good-faith basis for asking the question and advised the trial court that he had evidence that a third-party said the witness admitted murdering the victim. After an offer of proof, the trial court excluded the proffered question because it sought to elicit hearsay and no applicable hearsay exception had been established. The witness's answer was relevant to impeaching the witness's credibility. If the witness admitted to making the statement, regardless of whether the statement

was actually true, it would affect the witness's credibility or reveal his interest in testifying. The trial court's refusal to allow this impeachment of the witness was prejudicial.

(2) The trial court did not abuse its discretion in sustaining the state's hearsay objection to prohibit defense counsel from questioning the prison informant about the informant's prison conduct violations. Although a witness may be impeached during cross-examination with specific instances of misconduct relevant to the witness's character for truth and veracity, the admission of such evidence is subject to the trial court's discretion in limiting or excluding such evidence when its probative value is outweighed by its prejudicial effect. Without providing evidence of the nature and circumstances of the prison informant's false statements, defense counsel failed to show that those statements were relevant to the prison informant's character for truth and veracity.

(3) Evidence establishing that Winfrey had a financial motive for committing the murder and robbery and evidence that he had emotional distress over his financial situation were legally relevant. Evidence, however, that Winfrey continued to have financial problems after the commission of the murder and robbery were not probative to his motive because the crimes already had occurred. Likewise, evidence regarding the break-in of Winfrey's car after he was arrested lacked relevancy. On remand, any probative value regarding a prior burglary at the crime scene should be excluded because it would be outweighed by the prejudicial effect it would have on the jury.