

Summary of SC93348, *State of Missouri v. Sharnique N. Jones*

Appeal from the St. Louis County circuit court, Judge Colleen Dolan

Argued and submitted November 13, 2013; opinion issued April 15, 2014

Attorneys: Jones was represented by Ellen H. Flottman of the public defender's office in Columbia, (573) 882-9855; and the state was represented by Shaun J. Mackelprang 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 woman appeals her convictions for the first-degree murder of her infant daughter as well as first-degree endangering the welfare of her infant son and second-degree assault of the son. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the judgment. The woman fails to establish grounds to show the trial court plainly erred in admitting the out-of-court statements she made to a detective, and the evidence was sufficient for a reasonable juror to find she possessed the requisite intent to be guilty of each of the offenses for which she was convicted.

Facts: Sharnique Jones gave birth to a daughter in January 2008. Over the next several months, she brought her daughter to the hospital frequently because of various health concerns. Doctors confirmed the daughter was experiencing seizures and prescribed medication to control them. Medical staff instructed Jones about the proper feeding of and safe sleeping practices for newborns and gave her information about community resources for new mothers. During a home visit, a social worker also instructed Jones about safe sleeping practices for infants. In April 2008, Jones called 911, informing the operator that she had found her daughter in her bassinet not breathing. Paramedics were unable to resuscitate the infant, and she was pronounced dead at the hospital. Based on information from Jones, a doctor working in the medical examiner's office determined the daughter's death to be by natural causes from a seizure disorder, and the chief medical examiner signed the death certificate with that determination.

In January 2009, Jones gave birth to a son. Within a week, her son was admitted to the hospital twice. During both stays, hospital staff were concerned about Jones underfeeding her son. The first time, she checked him out against medical advice after accusing staff of force-feeding her son. The second time, medical staff referred the son's case to the state children's division, which took protective custody of the infant. After he gained enough weight, the hospital discharged him into the care of a foster parent, and he continued to gain weight. A detective investigated the son's nutritional neglect. Jones told the detective that she had missed several of his feedings and that, before the second hospitalization, he stopped breathing and turned blue after he ended up face down in a burp rag she was holding for him. She also told the detective that, the day her daughter died, she had become so frustrated with her daughter crying that she felt like harming herself or her child. She told the detective she placed her daughter face down on a bed with her face in a pillow, not thinking about what would happen to the infant. When she checked on her daughter 15 or 20 minutes later, she found the infant was not breathing. Police notified the medical examiner about Jones' statements, and the medical examiner amended the death certificate to indicate the cause of death was suffocation.

The state charged Jones with second-degree murder for her daughter's suffocation death, first-degree endangering the welfare of a child by creating a substantial risk to her son's life and health, and first-degree assault for knowingly causing serious physical injury to her son. After a trial, the jury found Jones guilty of second-degree murder, first-degree endangering the welfare of a child and the lesser-included offense of second-degree – rather than first-degree – assault. The court sentenced her to concurrent terms in prison (running together). Jones appeals.

AFFIRMED.

Court en banc holds: (1) This Court will not review Jones' claim that the trial court plainly erred in admitting her out-of-court statements to the detective as substantive evidence of second-degree murder on the ground that the state failed to prove the *corpus delicti* of that offense (to prove a crime was committed). Because Jones failed to object to the admission of these statements at trial on this ground, she has to prove that the court's error was evident, obvious and clear and that the error resulted in manifest injustice or miscarriage of justice. In a homicide case, *corpus delicti* requires only proof that the victim died and evidence that another person's criminal act caused the death. Jones concedes that evidence presented at trial corroborates her out-of-court statements. As such, she has not established substantive grounds that show plain error on their face.

(2) In reviewing the evidence in a light favorable to the guilty verdict and ignoring all contrary evidence and inferences – as this Court must – it is clear the state presented sufficient evidence from which a reasonable juror could find Jones possessed the requisite intent for each of the offenses for which she was convicted.

(a) The state presented sufficient evidence from which a reasonable juror could find, beyond a reasonable doubt, that Jones knowingly caused her infant daughter's death. The evidence showed Jones was aware that placing her daughter on her stomach with her face in a pillow was practically certain to cause the daughter's death and that her demeanor was not consistent with a mother who had just lost her child.

(b) The evidence was sufficient for a reasonable juror to find that Jones knowingly created a substantial risk to her newborn son's life and health. She admitted to hospital staff that she was feeding him only 80 calories a day (less than a third of what he needed) and that she had missed six feedings before taking him to the hospital. She then took him home against medical advice after being warned that doing so put him at risk for dehydration, starvation, neurological disorders or death. And, despite having been educated by medical staff about the proper amount and frequency of feeding, she continued to miss feedings at home.

(c) A reasonable juror could find from the evidence that Jones consciously disregarded the substantial and unjustifiable risk of suffocation to her newborn son. By her own admission, she placed him on her lap with his head near a burp rag and, after turning her attention to the television, ignored him long enough for him to stop breathing and turn blue, which an expert testified takes at least a minute or longer.