The Burger Court Opinion Writing Database

Schneble v. Florida

405 U.S. 427 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

February 15, 1972

Re: No. 68-5009 - Schneble v. State of Florida

Dear Bill:

Please join me.

Regards,

Mr. Justice Rehnquist

cc: The Conference

68-5009

February 8, 1972

Dear Byron:

I got a big lift out of your "Dear Bill" letter where you said it was a pleasure reading my opinions.

Later I discovered it was for "Dear Bill Rehnquist", not "Dear Bill Douglas."

Can't we work out some code like Bill, Will, and Willie?

William O. Douglas

Mr. Justice White

68-5009
Oct 71
WM Dougl

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 9, 1972

RE: No. 68-5009 - Schneble v. Florida

Dear Thurgood:

Will you please join me in your dissent in the above.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

February 16, 1972

68-5009 - Schneble v. Florida

Dear Bill,

Confirming our telephone conversation last week, I think your maiden effort is a fine one, and I am glad to join it.

Sincerely yours,

P.S.
1.

Mr. Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 7, 1972

Re: No. 68-5009 - Schneble v. Florida

Dear Bill:

Although I voted to remand this case for determination of the harmless error question by the Florida court, you have persuaded me that in its present posture we should decide the issue here and decide it as you have proposed. I thus join your opinion.

Please let me add that you write with great clarity and that it will be a pleasure to read your work.

Sincerely,

Mr. Justice Rehnquist

Copies to Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 68-5009

Donald Felix Schneble, Petitioner, *v.* State of Florida. | On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE MARSHALL, dissenting.

This is a capital case in which the petitioner was convicted of murder. When the case was last before us, we vacated the conviction and remanded for further consideration in light of *Bruton* v. *United States,* 391 U. S. 123 (1968). See *Schneble* v. *Florida,* 392 U. S. 298 (1968). On remand, the Supreme Court of Florida reaffirmed the conviction, holding that it was not "inconsistent with Bruton." While *Bruton* itself received an extensive factual analysis by the state supreme court, little attention was paid to the facts of the instant case and no reasons were proferred in support of the holding that *Bruton* was not violated. In today's opinion the Court rejects the Florida Supreme Court's conclusion that this case can be squared with *Bruton* and concludes that *Bruton* was violated when the statement of a nontestifying codefendant implicating petitioner in the crime charged was introduced at trial. Yet, the conviction is permitted to stand because the *Bruton* violation is viewed as "harmless error" within the meaning of *Chapman* v. *California,* 386 U. S. 18, 24 (1967). I dissent.

Determining whether or not a constitutional infirmity at trial is harmless error is a difficult task. However, I find it impossible to read the record in this case and to conclude that the evidence so "overwhelmingly" es-

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 68–5009

Donald Felix Schneble, Petitioner, *v.* State of Florida.	On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE DOUGLAS joins, dissenting.

This is a capital case in which the petitioner was convicted of murder. When the case was last before us, we vacated the conviction and remanded for further consideration in light of *Bruton* v. *United States,* 391 U. S. 123 (1968). See *Schneble* v. *Florida,* 392 U. S. 298 (1968). On remand, the Supreme Court of Florida reaffirmed the conviction, holding that it was not "inconsistent with Bruton." While *Bruton* itself received an extensive factual analysis by the state supreme court, little attention was paid to the facts of the instant case and no reasons were proferred in support of the holding that *Bruton* was not violated. In today's opinion the Court rejects the Florida Supreme Court's conclusion that this case can be squared with *Bruton* and concludes that *Bruton* was violated when the statement of a nontestifying codefendant implicating petitioner in the crime charged was introduced at trial. Yet, the conviction is permitted to stand because the *Bruton* violation is viewed as "harmless error" within the meaning of *Chapman* v. *California,* 386 U. S. 18, 24 (1967). I dissent.

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B

P.I and Mem Changes

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

Circulated:

Recirculated: 2/9/72

SUPREME COURT OF THE UNITED STATES

No. 68-5009

Donald Felix Schneble, Petitioner, *v.* State of Florida. | On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN join, dissenting.

This is a capital case in which the petitioner was convicted of murder. When the case was last before us, we vacated the conviction and remanded for further consideration in light of *Bruton* v. *United States*, 391 U. S. 123 (1968). See *Schneble* v. *Florida*, 392 U. S. 298 (1968). On remand, the Supreme Court of Florida reaffirmed the conviction, holding that it was not "inconsistent with Bruton." While *Bruton* itself received an extensive factual analysis by the state supreme court, little attention was paid to the facts of the instant case and no reasons were proferred in support of the holding that *Bruton* was not violated. In today's opinion the Court rejects the Florida Supreme Court's conclusion that this case can be squared with *Bruton* and concludes that *Bruton* was violated when the statement of a nontestifying codefendant implicating petitioner in the crime charged was introduced at trial. Yet, the conviction is permitted to stand because the *Bruton* violation is viewed as "harmless error" within the meaning of *Chapman* v. *California*, 386 U. S. 18, 24 (1967). I dissent.

Determining whether or not a constitutional infirmity at trial is harmless error is ordinarily a difficult task. This case is easier than most, because it is impossible to

Ok + 71 Wm Douglas

5,6

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice [illegible]
Mr. Justice [illegible]
Mr. Justice [illegible]

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 68–5009

Recirculated: 2/15/72

Donald Felix Schneble, Petitioner, *v.* State of Florida. | On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN join, dissenting.

This is a capital case in which the petitioner was convicted of murder. When the case was last before us, we vacated the conviction and remanded for further consideration in light of *Bruton* v. *United States,* 391 U. S. 123 (1968). See *Schneble* v. *Florida,* 392 U. S. 298 (1968). On remand, the Supreme Court of Florida reaffirmed the conviction, holding that it was not "inconsistent with Bruton." While *Bruton* itself received an extensive factual analysis by the state supreme court, little attention was paid to the facts of the instant case and no reasons were proferred in support of the holding that *Bruton* was not violated. In today's opinion the Court rejects the Florida Supreme Court's conclusion that this case can be squared with *Bruton* and concludes that *Bruton* was violated when the statement of a nontestifying codefendant implicating petitioner in the crime charged was introduced at trial. Yet, the conviction is permitted to stand because the *Bruton* violation is viewed as "harmless error" within the meaning of *Chapman* v. *California,* 386 U. S. 18, 24 (1967). I dissent.

Determining whether or not a constitutional infirmity at trial is harmless error is ordinarily a difficult task. This case is easier than most, because it is impossible to

6 Mr Brennan
Oct 11

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 10, 1972

Re: No. 68-5009 - Schneble v. Florida

Dear Bill:

I am pleased to join your first full opinion for the Court.

Sincerely,

H.A.B.

Mr. Justice Rehnquist

cc: The Conference

68-5009

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

orig to Sally Blk 6-99

March 23, 1972

Re: No. 68-5009 - Schneble v. Florida

Dear Bill:

Inasmuch as this is your first published opinion for the Court, would you do me the honor of autographing the enclosed so that my great-grandchildren may be proud of it a century hence.

Sincerely,

Harry

Mr. Justice Rehnquist

Happy Adopted!
Bill

(Slip Opinion)

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SCHNEBLE *v.* FLORIDA

CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 68-5009. Argued January 17-18, 1972—
Decided March 21, 1972

Petitioner was found guilty of murder following a jury trial in which police officers testified as to the detailed confession that he had given to them and in which one officer related a statement made to him by petitioner's codefendant, who did not testify, which tended to undermine petitioner's initial (but later abandoned) version and to corroborate certain details of petitioner's confession. The Supreme Court of Florida affirmed. Petitioner claims that the admission into evidence of his codefendant's statement deprived him of his right to confrontation in violation of *Bruton* v. *United States*, 391 U. S. 123. *Held:* Any violation of *Bruton* that might have occurred was harmless beyond a reasonable doubt in view of the overwhelming evidence of petitioner's guilt as manifested by his confession, which completely comported with the objective evidence, and the comparatively insignificant effect of the codefendant's admission. Pp. 3-5.

215 So. 2d 611, affirmed.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, WHITE, BLACKMUN, and POWELL, JJ., joined. MARSHALL, J., filed a dissenting opinion in which DOUGLAS and BRENNAN, JJ., joined.

To Harry Blackmun with the warm regard + admiration of his junior brother - Bill Rehnquist

B
JM

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 11, 1972

Re: No. 68-5009 Schneble v. Florida

Dear Bill:

Please join me in your opinion.

Sincerely,

LFP

Mr. Justice Rehnquist

Copies to The Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 68-5009

Donald Felix Schneble, Petitioner, *v.* State of Florida. | On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioner Schneble and his codefendant Snell were tried jointly in the Florida state court for murder. At the trial neither defendant took the stand, but police witnesses testified to certain admissions made by each defendant implicating both of them in the murder. Both defendants were convicted, and the Florida Supreme Court affirmed. This Court vacated and remanded the case for further consideration in the light of *Bruton* v. *United States*, 391 U. S. 123 (1968). *Schneble* v. *Florida*, 392 U. S. 298 (1968). Upon remand, the Supreme Court of Florida reversed Snell's conviction, finding that it had been obtained in violation of *Bruton*, but affirmed petitioner's conviction. We again granted certiorari, limited to the question of whether petitioner's conviction had been obtained in violation of the *Bruton* rule. In the circumstances of this case, we find that any violation of *Bruton* which may have occurred at petitioner's trial was harmless beyond a reasonable doubt. We therefore affirm.

The State's case showed that a threesome consisting of petitioner, Snell, and the victim, Mrs. Maxine Collier, left New Orleans in a borrowed automobile en route

B

pp 4-5, minor changes throughout

2nd DRAFT

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell

From: Rehnquist, J.

Circulated: _____

Recirculated: 2/10/72

SUPREME COURT OF THE UNITED STATES

No. 68–5009

Donald Felix Schneble, Petitioner, *v.* State of Florida.

On Writ of Certiorari to the Supreme Court of Florida.

[February —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioner Schneble and his codefendant Snell were tried jointly in a Florida state court for murder. At the trial neither defendant took the stand, but police witnesses testified to certain admissions made by each defendant implicating both of them in the murder. Both defendants were convicted, and the Florida Supreme Court affirmed. This Court vacated and remanded the case for further consideration in the light of *Bruton* v. *United States,* 391 U. S. 123 (1968). *Schneble* v. *Florida,* 392 U. S. 298 (1968). Upon remand, the Supreme Court of Florida reversed Snell's conviction, finding that it had been obtained in violation of *Bruton,* but affirmed petitioner's conviction. We again granted certiorari, limited to the question of whether petitioner's conviction had been obtained in violation of the *Bruton* rule. In the circumstances of this case, we find that any violation of *Bruton* which may have occurred at petitioner's trial was harmless beyond a reasonable doubt. We therefore affirm.

The State's case showed that a threesome consisting of petitioner, Snell, and the victim, Mrs. Maxine Collier, left New Orleans in a borrowed automobile en route

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 24, 1972

MEMORANDUM TO THE CONFERENCE

Re: 68-5009 - Schneble v. Florida

I noticed in the Washington Post this morning a story to the effect that Governor Askew of Florida had granted a moratorium on all executions until January 1, 1973. If this is in fact true, the handing down of the Court's opinion in this case, which affirms on a limited grant of certiorari a capital conviction, appears to me to be put in a somewhat different light than I thought it to be in our conference discussion of the matter last week. The Governor's stay would seem to indicate that there is no possibility that Schneble could be executed before the handing down of this Court's decision in the various capital cases which are pending before it. This being the case, I would suggest that the opinion need not await the decisions in the capital cases, and that the capital aspect be treated by the inclusion of a footnote referring to the Governor's stay, analogous to the footnote contained in Dutton v. Evans, 400 U.S. 75 at 90.

If this suggestion is acceptable to the Conference, I would propose to inquire through the Clerk's office in order to obtain some written confirmation of the Governor's action.

Sincerely,

WEB

Wm Brennan
2711

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell

Rehnquist, J.

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

Circulated:

Recirculated: 3/18/72

SUPREME COURT OF THE UNITED STATES

Syllabus

SCHNEBLE *v.* FLORIDA

CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 68–5009. Argued January 17–18, 1972—
Decided March 21, 1972

Petitioner was found guilty of murder following a jury trial in which police officers testified as to the detailed confession that he had given to them and in which one officer related a statement made to him by petitioner's codefendant, who did not testify, which tended to undermine petitioner's initial (but later abandoned) version and to corroborate certain details of petitioner's confession. The Supreme Court of Florida affirmed. Petitioner claims that the admission into evidence of his codefendant's statement deprived him of his right to confrontation in violation of *Bruton* v. *United States*, 391 U. S. 123. *Held:* Any violation of *Bruton* that might have occurred was harmless beyond a reasonable doubt in view of the overwhelming evidence of petitioner's guilt as manifested by his confession, which completely comported with the objective evidence, and the comparatively insignificant effect of the codefendant's admission. Pp. 3–5.

215 So. 2d 611, affirmed.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, WHITE, BLACKMUN, and POWELL, JJ., joined. MARSHALL, J., filed a dissenting opinion in which DOUGLAS and BRENNAN, JJ., joined.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

68-5009

March 27, 1972

MEMORANDUM TO THE CONFERENCE

Re: No. 71-5035 - Samperi v. New York

I am advised that this case, listed on page 12 of the Conference List for March 31, 1972, has heretofore been held for the decision in Schneble v. Florida, No. 68-5009. I offer the following observations with respect to the Schneble point in the petition for certiorari.

Two participants in a robbery-murder each made a confession to police, who in turn recited the confessions at trial. Each petitioner was charged with first degree murder under New York's felony-murder law. The state asserts that the receipt of the confession of the petitioner's co-defendant was a violation of Bruton, entitling him to reversal. The New York State courts ruled against him on this point, and upheld the sentence of life imprisonment (reduced from a death sentence after the finding of a Witherspoon violation) following his conviction by a jury.

Petitioner confessed to the commission of a robbery with his co-defendant, but claimed that the murder was done by the co-defendant on his own after petitioner had taken the cash from the store which was robbed and gone outside. Petitioner's co-defendant, who did not take the stand, had made a statement to the effect that there was an earlier discussion between the two about getting rid of witnesses,

and further stated that petitioner, after he had gone outside, had given him the "all clear" sign. Petitioner's confession stated that after he had gone outside, he heard shots, and that when his co-defendant emerged from the store he inquired what had happened; the co-defendant said he had shot the two victim, whereupon petitioner claimed that he had told his co-defendant that he was "crazy". Petitioner's statement admit that the two then proceeded together down the street to split up the proceeds of the robbery.

If evidence of intent to commit the murder had been relevant in the state trial, there is no doubt that the statement of the co-defendant implicated petitioner in a way that his own confession did not. However, both defendants were charged with felony-murder, and the trial judge charged the jury that the petitioner could be found guilty only if the jury found, beyond a reasonable doubt, that the killing by petitioner's co-defendant "occurred during the commission of the robbery and that there was no abandonment and that [petitioner] was still involved as a participant to the robbery". The state courts upheld the conviction against petitioner's state law contention that he had actually abandoned the enterprise prior to the commission of the murder.

Under the theory on which this case was tried, I believe that the Bruton issue presented is substantially similar to the facts of Schneble. I will therefore vote to deny, rather than to remand this case for reconsideration in light of Schneble.

W.H.R.