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Arapahoe County murder conviction overturned due to prosecutor misconduct

Prosecutors inappropriately suggested the defendant's exercise of his constitutional right to silence meant he was guilty

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The Ralph L. Carr Colorado Judicial Center, on Tuesday, Sept. 13, 2022, in Denver, Colo. (Timothy Hurst/The Denver Gazette)

Timothy Hurst

A teenager convicted of murder will receive a new trial after Colorado's second-highest court determined on Thursday that Arapahoe County prosecutors inappropriately used the defendant's constitutional right to silence as evidence of his guilt.

Jurors convicted Marquez Woodruff in 2019 of fatally shooting Terry Capler in the latter's Aurora home. Woodruff, who was 16 at the time of the killing, argued he acted in defense of himself and his girlfriend. He is currently serving a life sentence with the possibility of parole.

Although the defense did not object to the prosecution's conduct at trial, Woodruff argued on appeal that the prosecutors, at various points, suggested to jurors that Woodruff's refusal to explain himself to police was a sign his "story" was not credible.

A three-judge panel for the Court of Appeals agreed the prosecutors' commentary broke a clearly-established rule against penalizing a defendant for taking advantage of his constitutional protections.

"The error was also substantial in that the prosecutor repeatedly emphasized through further testimony and argument that the evidence of post-arrest silence rebutted Woodruff's defense," wrote retired Supreme Court Justice Alex J. Martinez, who sat on the panel at the chief justice's assignment.

Case: People v. Woodruff

Decided: November 30, 2023

Jurisdiction: Arapahoe County

Ruling: 3-0

Judges: Alex J. Martinez (author)

Ted C. Tow III

Jaclyn Casey Brown

Background: [Teen runaway convicted of 2017 Aurora murder gets life, parole chance in 40 years](#)

The problematic questioning arose after Woodruff testified at his trial that he asked police officers why they had arrested him.

"No one told me. And then finally they told me, 'Well, you have been arrested for a homicide'," Woodruff recalled. "I said, 'A homicide? I didn't kill nobody'."

At the police station, a detective began to give Woodruff his Miranda warning, but because Woodruff was a juvenile, his mother was present and invoked his rights to an attorney and to not speak with police.

The Court of Appeals did not name the prosecutors on the case — Zoe Laird and Amy Ferrin — but one of them began probing Woodruff about the decision to exercise his right against self-incrimination.

"You definitely didn't speak to the police after that day, right?" the prosecutor asked.

"No," Woodruff responded.

"So, the first time that you've told your story to anyone other than your lawyers is here in this courtroom, correct?" the prosecutor continued.

Yes, said Woodruff.

The prosecution also questioned the detective, confirming Woodruff never offered to talk to authorities. District Court Judge Andrew Baum decided the questioning about Woodruff's silence was proper because it contradicted his testimony that he spoke to police and said he did not murder

anyone.

Finally, in closing arguments, one of the prosecutors argued Woodruff's behavior was inconsistent with self-defense.

Woodruff was not "forthcoming when the police found (him)," the prosecutor told jurors. He "waited and waited and waited and came into this courtroom and told you this new version for the first time."

Woodruff argued on appeal that the prosecutors' commentary on his silence suggested he was guilty for exercising his right not to speak with the police. The Colorado Attorney General's Office countered that it was important for the prosecution to show the inconsistency between Woodruff invoking his right to silence, on the one hand, and allegedly telling police he denied committing murder, on the other.

Martinez, in the appellate panel's Nov. 30 opinion, acknowledged Woodruff said he "didn't kill nobody," but there was no evidence his comment came after the Miranda warning. Therefore, there was no inconsistency and no need for the prosecution to repeatedly bring up Woodruff's silence.

"The error in admitting evidence of post-arrest silence was obvious," Martinez wrote.

Further, the Court of Appeals found it improper for Baum to limit the jury's consideration of the victim's own criminal behavior and possession of a gun when evaluating Woodruff's self-defense claim.

The panel ordered a new trial.

The case is *People v. Woodruff*.

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