

CASE NO. 20-004
SUPREME COURT

TIMOTHY VANG v. STATE OF MINNESOTA

Parties: **Appellant – Timothy Vang**
 Respondent – State of Minnesota

Issues:

- (1) Whether the use of an anonymous jury violated Vang’s fundamental right to a trial by an impartial jury.
- (2) Whether the prosecutor's closing arguments were so improper as to require a new trial.

Facts:

At approximately 2:00 a.m. early Saturday morning on January 9, 2017, a convenience store clerk in South St. Paul was shot and murdered during a robbery. The clerk was the son of a City Council member. Three individuals in two separate cars outside the store heard the shots and saw the murderer leave the store and drive off. Their descriptions of the murderer and the car that was driven were similar and generally matched that of the defendant, Timothy Vang.

Vang was arrested six days after the murder. He had been stopped for speeding and expired license tabs. During the stop, a gun was discovered in plain view on the front seat. He was arrested for unlawful possession of a firearm. Ballistic tests could not match this gun to the murder weapon used. At the time he was stopped for speeding, he was on probation for a 2013 incident for unlawful possession of a firearm.

Vang has a lengthy criminal record for theft and property crimes, including check forgery and drug dealing. He was an active member of a gang several years ago but has had no known active involvement in the past eighteen months. Seven years ago, he was convicted of assaulting an off-duty police officer. He was once charged, but not convicted, for attempting to tamper with a witness in a murder trial against his brother four years ago.

Because both he and his car generally matched the description of the murderer, the three witnesses examined Vang in a police line-up. They all identified him as the man they saw leaving the store. When questioned, Vang originally said he had been in Chicago that day. He later was unsure whether he had been in Chicago that day or the next day and could not remember where he was at the time of the murder. Vang was charged with the murder.

One of the individuals that identified Vang was seriously injured in a hit and run car accident two weeks after Vang's arrest but while Vang remained in jail pending trial. He did not testify at trial. The other two individuals testified at trial and identified Vang. At trial the prosecution also offered testimony from a prisoner that testified that Vang told him while the two were in jail that Vang had been out drinking in St. Paul the night of the murder with some friends after an argument with his girlfriend. This witness admitted he cooperated with the prosecution and arranged a favorable plea agreement.

Over Vang's objection, the trial court chose to empanel an anonymous jury, citing concerns over the public's interest in the trial, the defendant's past criminal record and gang involvement, and the unsolved hit and run accident involving a witness. Vang claimed an anonymous jury deprived him of the presumption of innocence and was not warranted given the lack of media attention or threats to jurors. The murder attracted a great deal of public attention in South St. Paul and the Twin Cities. The local newspapers and television stations reported on the murder and covered the trial.

The trial court instructed the jury that their names were not released so as to avoid any media members or anyone else bothering them. They were instructed not to infer anything from this procedure but to base their decision on the evidence presented and the applicable law. Vang had an extensive opportunity to examine potential jurors during voir dire, and he admits on appeal that there is no direct evidence that any jurors concluded from their anonymity that they were in danger or that Vang was guilty.

Vang chose to exercise his constitutional right to not testify at trial. The only evidence and witness that Vang presented in his defense was his girlfriend's alibi testimony that she and Vang spent the night of the murder at their apartment arguing. Defense counsel argued that any identification of the murderer was mistaken.

In closing arguments, the prosecutor commented on the defendant being "responsible" for his conduct and bearing the consequences of his actions. The prosecutor discussed the need for the jury to take responsibility for convicting defendant and helping to clean up the streets so that law and order would prevail. The prosecutor asked the jurors to wonder how the victim's family reacted to this crime and how the victim must have felt that evening. The prosecutor argued that the evidence of mistaken identity was weak and that the defense's witnesses should not be believed, noting repeatedly that the state's evidence was "essentially, undisputed." The prosecutor also argued that constitutional rights are designed to protect the innocent but were not designed to protect the guilty.

Authorities:

The following is a brief summary of some things you should think about and keep in mind when you read the cases and as you prepare your briefs and arguments. You are not limited to these points. Instead, they are just good starter questions to think about. You will also notice some cases attached. These cases represent some of the materials you can use to begin your research. Other case citations are below but are not included in this packet—you will need to seek out these case materials to complete your briefs and oral arguments (denoted by **)

Summary:

Issue #1 -- Anonymous Jury

Did the lower court improperly apply precedents in permitting the anonymous jury?
In what circumstances is an anonymous jury properly used?
Is the use of an anonymous jury an "inherently prejudicial practice"? Why or why not?
Was Vang's right to a trial by an impartial jury violated?

Issue #2 - Closing Arguments

Was the content of the prosecutor's closing arguments improper?

Were Vang's rights violated if the remarks were improper? Were they so violated as to warrant a new trial?

Did the closing arguments improperly influence the jury?

Does the court have a responsibility to exercise its supervisory powers over attorneys and juries and the conduct of both groups?

Cases and Related Materials:

State v. Bowles, 530 N.W.2d 521 (Minn. 1995)

State v. McKenzie, 532 N.W.2d 210 (Minn. 1995)

** State v. Salitros, 499 N.W.2d 815 (Minn. 1993)

** State v. Bohlsen, 526 N.W.2d 49 (Minn. 1994)

** State v. VanWagner, 504 N.W.2d 746 (Minn. 1993)

** United States Constitution, Amendments V, VI, and XIV

** Minnesota Constitution, Article I, § 6