No. 23-01

In the Supreme Court of the State of Ridgeway

PROCEED101, PETITIONER

v.

STATE OF RIDGEWAY

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF RIDGEWAY

BRIEF FOR THE STATE OF RIDGEWAY

TOTORO987123
Solicitor General
Counsel of Record
ROBLOXIAN_EJ
Assistant Solicitor General
Ridgeway Department of Justice

QUESTION PRESENTED

Did the Superior Court violate petitioner's rights to a fair trial by imposing a time limitation on the examination of a critical witness, thereby preventing him from fully cross-examining the witness and presenting a complete defense to the alleged offenses?

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Statutes and rule:

In the Supreme Court of the State of Ridgeway

PROCEED101, PETITIONER

v.

STATE OF RIDGEWAY

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF RIDGEWAY

BRIEF FOR THE STATE OF RIDGEWAY

OPINIONS BELOW

The opinion of the Superior Court is located at docket number RSC-CM-889.

JURISDICTION

The judgment of the Superior Court was entered on May 1, 2023. On May 1, 2023 a petition for a writ of certiorari was filed in this Court, which granted the petition on May 11, 2023. The jurisdiction of this Court is invoked under Section 2.3(e) of the Judiciary Act.

STATEMENT

In January 2023, the Petitioner was charged with Second Degree Murder (3 R.C.C.§10), Assault with a Deadly Weapon (3 R.C.C. § 03), and Vandalism (4 R.C.C. § 07) for the Murder of and subsequent actions against

Ronnie2347. The petitioner requested, and was thereafter appointed, a court-issued attorney, with the initial trial scheduled for March 6th, 2023. Consequently, the Defendant, Proceed101, was found guilty of each of the counts.

Petitioner, acting pro se, filed a post-conviction Motion to Vacate his original conviction, claiming Ineffective Assistance of Counsel. Upon further consideration, the Court granted petitioner's Motion to Vacate and ordered a retrial.

During the second trial, though, the presiding Superior Court judge imposed a 30-minute time limit on direct and cross examinations of Ronnie2347 — in order to preserve fundamental decorum, and efficiency within the Courts, and relevant parties' proceedings. In many ways, this restriction was a reaction to the chaos of the initial trial, during which the parties engaged in lengthy, irrelevant, and arbitrary lines of questioning that did not substantially contribute to the adjudication of the facts within this case. The original cross examination of Ronnie2347 lasted for two hours.

After a 30-minute direct examination of Ronnie2347, it was time for the Petitioner to cross examine. Petitioner's counsel had confirmed his presence at the start of the direct examination and actively engaged in the direct examination via objections. Yet, with the clock on his cross examination now ticking down, Petitioner's counsel was absent. 11 minutes and 54 seconds later, Petitioner's counsel would begin questioning the defendant, though noticeable increments of time would pass between responses and subsequent questions. After the allotted 30 minutes, Petitioner's counsel was cut off by the judge. Ultimately, the Court again found the Defendant Guilty of

Murder in the Second Degree, and Assault with a Deadly Weapon, but innocent of Vandalism.

The Defendant then petitioned this court for Certiorari.

SUMMARY OF ARGUMENT

For reversal, Petitioner needs to demonstrate abuse of discretion and prejudice. They have done neither. Federal circuit courts unanimously agree that trial courts have wide latitude to impose time limits on witness examinations, including cross examinations. This is a power inferred from the Federal Rules of Civil Procedure and Federal Rules of Evidence. Because Ridgeway's procedural rules contain near identical twins of the relevant federal rules, this court should, owing to precedent, defer to the federal interpretation and reaffirm the power of trial courts to set time limits. These time limits, even on cross examination, do not violate the Confrontation Clause so long as defendants are given the "opportunity for effective cross-examination." *Delaware* v. *Van Arsdall*, 475 U.S. 673, 679 (1986). Here, that opportunity was given but squandered. Thus, the Confrontation Clause was not violated. Moreover, Petitioner fails to articulate prejudice endured by the court's decision and thus the error is harmless. Since Petitioner has failed to demonstrate clear abuse resulting in manifest prejudice, this court must affirm.

ARGUMENT

I. STANDARD OF REVIEW

"The imposition of time limits, a factor that goes to the fairness of the trial, is reviewed for an abuse of discretion." *Monotype Corp.* v. *International Typeface Corp.*, 43 F.3d 443 (9th Cir. 1994) (citing *Hansen v.*

Commissioner, 820 F.2d 1464, 1467 (9th Cir. 1987)). "To be sure, reviewing courts have not given district courts free rein to manage time limits. Appellate courts have uniformly reviewed such impositions for abuse of discretion…. We adopt abuse of discretion as the appropriate standard for our review." *Raynor* v. *G4S Secure Solutions (USA), Inc.*, 805 Fed. Appx. 170 (4th Cir. 2020).

However, abuse of discretion is not the only factor this court must consider when reviewing the imposition of time limits. Petitioners must also show that they endured some articulable prejudice as a consequence of the imposed time limits. *Pierce* v. *County of Orange*, 526 F.3d 1190, 1200 (9th Cir. 2008) (citing *Monotype Corp.*, supra). "District court decisions on such matters will be reversed only when there has been a clear abuse of discretion and a showing of prejudice to the defendant." *United States* v. *Crump*, 934 F.2d 947 (8th Cir 1991) (emphasis added). This court does not reverse harmless errors. Rid. R. Evid. 2 (stating "A party may claim error in a ruling to admit or exclude evidence only if the error injuriously affects a substantial right of the party" (emphasis added)).

Thus, this court must not reverse absent clear abuse resulting in manifest prejudice to the Petitioner.

II. TRIAL COURTS HAVE WIDE LATITUDE TO IMPOSE TIME LIMITS ON WITNESS EXAMINATIONS, INCLUDING CROSS EXAMINATION

There is no explicit source permitting trial judges to set time limitations on the cross examinations of witnesses. However, the federal circuit courts have unanimously agreed that the practice is permissible under the authority of the federal district courts. See, *e.g.*, *Raynor*, supra; *In re Baldwin*, 700 F.3d 122, 129 (3d Cir.

2012) (collecting cases); *Life Plus Intern.* v. *Brown*, 317 F.3d 799, 807 (8th Cir. 2003); *Sparshott* v. *Feld Entm't, Inc.*, 311 F.3d 425, 433 (D.C. Cir. 2002); *Gen. Signal Corp.* v. *MCI Telecomm. Corp.,* 66 F.3d 1500, 1508 (9th Cir. 1995); *Deus* v. *Allstate Ins. Co.*, 15 F.3d 506, 520 (5th Cir. 1994); *Johnson* v. *Ashby*, 808 F.2d 676, 678 (8th Cir. 1987); *MCI Comms.* v. *AT&T*, 708 F.2d 1081 (7th Cir. 1982).

These rulings have generally inferred the power to set time limits from the Federal Rules of Civil Procedure and Federal Rules of Evidence. Indeed, "Although the procedural rules governing federal civil litigation do not explicitly authorize a district court to set time limits for a trial, a district court has inherent power 'to control cases before it,' provided it exercises the power 'in a manner that is in harmony with the Federal Rules of Civil Procedure.'" *Duquesne Light Co.* v. *Westinghouse Elec. Corp.*, 66 F.3d 604 (3rd Cir. 1995) (quoting *G. Heileman Brewing Co.* v. *Joseph Oat Corp.*, 871 F.2d 648, 652 (7th Cir.1989) (en banc)). Indeed, "the rules repeatedly embody the principle that trials should be both fair and efficient." Id. Each provision of the Federal Rules of Civil Procedure and the Federal Rules of Evidence that federal district and circuit courts cite as harmonious with this power has an exact parallel in the Ridgeway Rules of Civil Procedure and Ridgeway Rules of Evidence.

First, Rule 1 of the Federal Rules of Civil Procedure states the rules of civil procedure are to be construed to "secure the just, speedy, and inexpensive determination" of each case. Fed. R. Civ. P. 1. Likewise, Rule 1(b) of the Ridgeway Rules of Civil Procedure "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." Rid. R. Civ. P. 1(b).

Second, Rule 403 of the Federal Rules of Evidence permits courts to "exclude relevant evidence if its probative value is substantially outweighed by a danger of… undue delay, [or] wasting." Fed. R. Evid. 403. Rule 12 of the Ridgeway Rules of Evidence mirrors this federal rule word for word. See Rid. R. Evid. 12. Third and finally, Rule 611 of the Federal Rules of Evidence directs trials courts to control the presentation of evidence to "avoid needless consumption of time." Fed. R. Evid. 611. Very similarly, Rule 37(a) of the Ridgeway Rules of Evidence states that "The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to: make those procedures effective for determining the truth, avoid wasting time, and protect witnesses from harassment or undue embarrassment." Rid. R. Evid. 37(a) (emphasis added).

The provisions of the federal rules that federal courts cite as the basis for their power to impose time limits are nearly identical to provisions in Ridgeway rules, suggesting that Ridgeway courts are vested with this same power to impose reasonable time limits on witness examinations. However, the authority of Ridgeway courts to set these constraints is bolstered and further derived from a more lofty source: the Ridgeway Constitution. Article V Section 1 states that "The Courts of Justice shall be open for the trial of all causes proper for their cognizance; and justice shall be therein impartially administered, without corruption or unnecessary delay." Rid. Const. Art 5, Sec 1 (emphasis added).

"Owing to the mirroring of these rules, this Court tends to rely on federal precedent to guide its interpretation of relative issues." *xLaZerify* v. *StudsPerSecond*, 1 Rid. 101, 104 (2022) (citing *Titanic* v.

Nev, 1 Rid. 80, at 84 (2022); *State* v. *Lx1nas*, 1 Rid. 46, at 46, 51, 52-54 (2022)). Since the federal circuit courts have unanimously interpreted near-identical rules to imbue federal trial courts with the power to set reasonable time limits, this Court should defer to the federal interpretation.

"Although it may be more common for a district court to impose time limits in a civil trial, setting time limits in a criminal trial is equally authorized." *United States* v. *Cousar*, 2007 WL 4456798 (W.D. Pa. 2007). Thus, trial courts within Ridgeway may set reasonable time limits on witness examinations in criminal trials. Such limitations promote judicial economy in the lower court.

The Sixth Amendment's confrontation clause does, however, require this court to pursue further analysis. "Supreme Court precedent interpreting the Confrontation Clause establishes only general rules that give trial judges 'wide latitude' to restrict cross-examination, subject only to the equally general requirement that the defense be given a 'meaningful opportunity' to test the credibility of prosecution witnesses." *Watson* v. *Greene*, 640 F.3d 501, 509 (2d Cir. 2011) (quoting *Delaware* v. *Van Arsdall*, supra at 679 (1986), *Crane* v. *Kentucky*, 476 U.S. 683, 690 (1986)). Generally speaking, a court violates the Confrontation Clause only when it prevents a defendant from examining a particular and relevant topic, such as bias. *Fenenbock* v. *Director of Corrections for California*, 692 F.3d 910 (9th Cir. 2012). However, while limits on the subject matter are subject to scrutiny, time limits are generally within the trial court's discretion. See *Martin* v. *Ercole*, No. 07-CV-7171 (KMK), 2012 WL 4465854, at *2 (S.D.N.Y. Sept. 27, 2012) (denying habeas petition based on "strict" time limit

at trial because "trial judges retain 'broad discretion' to limit inquiry, even the cross-examination of prosecution witnesses" (emphasis added) (quoting *United States* v. *Coppola*, 671 F.3d 220, 247 n.21 (2d Cir. 2012))). In fact, because of the Confrontation Clause, limiting the time allotted to cross-examination is often considered a better approach than limiting the subject matter. *Fenenbock*, supra (citing *Holley* v. *Yarborough*, 568 F.3d 1091, 1100 ("[T]he court could have limited the time allotted to discussion of the [objectionable topic], rather than excluding all discussion")).

As the Supreme Court has repeatedly explained, the Confrontation Clause only guarantees defendants the "opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." *Van Arsdall*, 475 U.S. at 679 (emphasis added) (quoting *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985) (per curiam)). Reasonable time limits do not inherently deprive defendants of the opportunity for effective cross-examination. To the extent that defendants could effectively cross examine a witness on relevant topics in a given time limit, no Confrontation Clause violation has occurred. "In other words, a trial court may limit cross-examination 'after the questioner has had reasonable chance to pursue the matters raised on direct.'" *United States* v. *Vest*, 116 F.3d 1179 (7th Cir. 1997) (quoting *United States* v. *Caudle*, 606 F.2d 451, 459 (4th Cir. 1979)) (emphasis added); see also *Tague* v. *Richards*, 3 F.3d 1133, 1138 (7th Cir. 1993)

Thus, the key question thus becomes whether the petitioner had a "reasonable chance" to cross examine the prosecution's witness on matters raised during

direct, as required by the Confrontation Clause. *Vest*, supra; Also see *Rhodes* v. *Racette*, No. 15-CV-4263 (ARR), 2017 WL 53275, at *7 (E.D.N.Y. Jan. 4, 2017). If Petitioner had an "opportunity for effective cross examination," irrespective of if that opportunity achieved Petitioner's objectives, then no Sixth Amendment violation has occurred. *Van Arsdall*, 475 U.S. at 679.

III. PETITIONER HAD A REASONABLE OPPORTUNITY FOR EFFECTIVE CROSS EXAMINATION; THUS, THE TRIAL COURT DID NOT ABUSE ITS DISCRETION

Petitioner argues that "The court's imposition blatantly foreclosed on any ability for the Petitioner to challenge and understand the veracity of the witness's testimony." Petitioner's claim strikes at the heart of the analysis this court must now engage in. Did the Petitioner have a "reasonable chance to pursue the matters raised on direct" *Vest*, supra (quoting *Caudle*, supra). If the Superior Court had directly prohibited the Petitioner from inquiring into certain subjects raised on direct, he certainly would have been denied his reasonable chance. But no such prohibition was enacted. The Superior Court, however, merely set a time limitation on cross-examination, and during his allotted time the Petitioner had every opportunity to cover whatever topics he desired. The time given to the Petitioner was entirely reasonable for him to conduct a comprehensive cross examination.

From the outset, both the State and the Petitioner were given thirty minutes each to direct and cross, respectively, the witness Ronnie2347. Given that cross examination is limited in scope to matters covered on direct and that the leading question format tends to move quickly, this initial distribution suggests that the

Petitioner would have had ample time to sufficiently cross examine the witness. Moreover, in the initial trial, defense counsel cross examined Ronnie2347 for over two hours. That lengthy record was available to Petitioner, who could have used it to speed up the subsequent cross examination. The time distribution was reasonable given the context of the case.

However, what prevented Petitioner from covering all the topics he desired was not the time limit, but him. Petitioner's counsel, after confirming he was present and objecting throughout the direct, disappeared as the judge began the clock on his cross examination. Petitioner's counsel subsequently began questioning the witness only after 11 minutes and 54 seconds of his allotted time had passed. Trial record at 4/7/2023, 6:52:35 PM. Despite confirming his presence and playing an active role during the direct, Petitioner's counsel squandered over a third of his cross examination time. Petitioner's counsel continued to waste his party's time, often taking long breaks between witness answers and follow up questions. These gaps included at least one 90 second gap, one 75 second gap, and three 60 second gaps. Opposing counsels' slow cadence and abject tardiness resulted in Petitioner's inability to surface desired facts.

With the time that the Petitioner did have, his counsel launched into seemingly irrelevant lines of questioning. Petitioner's counsel asked the witness (and victim) about his driving patterns — specifically a u-turn he took — before he was slain. The counsel continued down this line of questing, asking the witness if he knew that u-turns were illegal and if he made it in front of oncoming traffic. Petitioner's counsel spent six minutes on this line of questioning. How the victims driving patterns and the

legality thereof are in any way significant, relevant, or exculpatory for the defendant eludes the State. Indeed, the testimony was so irrelevant that the Petitioner's counsel did not even reference it in his closing statement. Nonetheless, this is how the Petitioner's counsel chose to spend their time — pursuing frivolous lines of questioning.

A trial court "violates the Sixth Amendment only where it has so abused its discretion as to prevent the jury from making a discriminating appraisal of the witness' testimony." *United States* v. *Valles*, 41 F.3d 355, 359 (7th Cir. 1994). The Superior Court here did not prevent the jury from making such an appraisal. Rather, the failure to reach relevant, exculpatory details on cross-examination was the result of the lateness, delayed questioning, and irrelevant lines of questioning of Petitioner's counsel.

The Confrontation Clause merely requires that Petitioner be given the "opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." *Van Arsdall*, supra at 679 (emphasis added). Petitioner was given that opportunity, but squandered it. Had Petitioner's counsel begun on time, avoided unnecessary delays, and pursued lines of questioning that were more than marginally relevant, then this self-inflicted wound would have been avoided. However, it's certainly not the trial court's fault that Petitioner wasted their own time. Petitioner had an adequate opportunity to cross examine the witness; that he chose not to is not redressable on appeal. See, for example, *Rhodes*, supra (rejecting a claim that the Confrontation Clause was violated because the Petitioner had ample time, but his

counsel spent it on irrelevant questions, returned late from breaks, and asked questions with a slow cadence).

Therefore, the trial court did not violate the Petitioner's Confrontation Clause rights; no abuse of discretion occurred nor was the Petitioner prejudiced. This court must affirm.

IV. ALLEGED ERROR WAS HARMLESS

Even absent our Sixth Amendment analysis, this Court must not reverse since the alleged error was harmless. "District court decisions on such matters will be reversed only when there has been a clear abuse of discretion and a showing of prejudice to the defendant." *Crump,* supra (emphasis added). This court does not reverse harmless errors. Rid. R. Evid. 2 (stating "A party may claim error in a ruling to admit or exclude evidence only if the error injuriously affects a substantial right of the party" (emphasis added)).

Neither in this court nor the trial court has the Petitioner made a showing of prejudice. Although the Petitioner asserts generally that he did not have adequate time to raise all relevant points on cross examination, Petitioner has not shown that "there was harm incurred as a result" of the time limit. *Monotype Corp.,* supra at 451. Petitioner objected to the time limitation but did not specify what evidence he would have presented if more time had been allotted. Id. (rejecting the plaintiffs argument after noting similar circumstances). Petitioner's failure to do so is fatal. The mere claim that he was prejudiced is insufficient absent any demonstration of harm. When an appellate court is "unable to conclude that its ruling had any impact on the outcome of the case," as is the situation here, it must not reverse. *Duquesne Light Co.,* supra.

Since this court does not reverse harmless errors, it must affirm.

CONCLUSION

For the foregoing reasons, since Petitioner has failed to demonstrate clear abuse resulting in manifest prejudice, this court must affirm the decision below.

TOTORO987123.
Solicitor General
Counsel of Record
ROBLOXIAN_EJ
Assistant Solicitor General

JUNE 2023