

In a trial of a defendant for armed bank robbery, the prosecutor presented overwhelming evidence of guilt. Three tellers identified the defendant as the robber, a latent fingerprint found on the bank counter linked the defendant to the scene, and bank money had been found in the defendant's car. The police had arrested the defendant immediately after the robbery, as the defendant was driving away from the bank.

When the prosecution rested its case, the judge directed the jury to return a verdict of guilty. The defense attorney did not object at the time. The jury withdrew, discussed the case, and agreed to a guilty verdict. The jury returned to the courtroom and announced the guilty verdict. The defense attorney then voiced an objection to the judge's having directed the verdict. The court overruled the objection and sentenced the defendant to 20 years in prison.

On appeal, what should the appellate court do?

- A. Affirm the conviction, because the defense attorney failed to timely object to the judge's action.
- B. Affirm the conviction, because the prosecution presented both circumstantial and direct evidence conclusively establishing the defendant's guilt.
- C. Reverse the conviction, because the defense attorney's failure to timely object to the judge's action constituted ineffective assistance of counsel.
- D. Reverse the conviction, because the judge's action in directing the verdict denied the defendant his constitutional right to a trial by jury.

Explanation:

Structural errors

Biased judge

Deprivation of right to counsel

Attorney enters guilty plea over defendant's objection

Discriminatory selection of jurors

Exclusion of defendant from courtroom during trial

Denial of public trial and/or jury trial

Improper jury instruction on burden of proof

An appellate court should automatically reverse a defendant's conviction if the trial court committed a **structural error**. A structural error is an error that affects the entire framework of a criminal trial and renders it fundamentally unfair (eg, denial of the **Sixth Amendment right to jury trial**). Every criminal defendant who is charged with a **serious offense**—a crime that carries a possible **prison sentence greater than six months** (eg, armed bank robbery)—has the right to have a jury determine his/her guilt. Therefore, this right was violated when the judge directed the jury to return a guilty verdict,* and an **automatic reversal** of the defendant's conviction is warranted.

In contrast, no structural error would have occurred had the trial judge directed the jury to return a verdict of acquittal upon finding that there was insufficient evidence for a reasonable jury to find the defendant guilty.

(Choice A) A timely objection—an objection made when a judge can still correct the error (usually at the time the error occurred)—is generally required to preserve an error for appeal. Otherwise, that error is waived. However, a timely objection is not needed to challenge a structural error on appeal.

(Choice B) The prosecution presented circumstantial (latent fingerprint) and direct (tellers' identification) evidence that conclusively established the defendant's guilt. This evidence would ordinarily show that the alleged error was harmless (ie, did not affect the trial's outcome) and that the conviction should be affirmed. But since a structural error is *never* harmless, the conviction must be reversed—despite the overwhelming evidence of guilt.

(Choice C) An ineffective-assistance-of-counsel claim requires proof that the defense attorney's performance was deficient (below an objective standard of reasonableness) and prejudicial (affected the result of the proceeding). Here, the defense attorney's failure to timely object was not deficient or prejudicial since this error can still be raised on appeal. Therefore, the defendant's conviction will not be reversed on this basis.

Educational objective:

A defendant charged with a serious criminal offense has a Sixth Amendment right to a jury trial, so a judge cannot direct the jury to return a guilty verdict. Doing so constitutes a structural error that requires automatic reversal of the defendant's conviction on appeal.

References

U.S. Const. amend. VI (right to jury trial).

Sparf v. United States, 156 U.S. 51, 105–06 (1895) (holding that a judge cannot direct the jury to find a criminal defendant guilty).

Rose v. Clark, 478 U.S. 570, 578 (1986) (explaining that a directed verdict against a criminal defendant constitutes structural error).

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