

State v. Cosey

Case Number

S-18-0747

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April 29, 2019

Court Number

Clay

Case Location

Scottsbluff

Case Summary

S-18-0747 State of Nebraska v. Eugene T. Cosey (Appellant)

Clay County District Court, Judge Vicky L. Johnson

Attorneys: Mark Porto (Porto Law Office, for Appellant) --- Siobhan E. Duffy (Office of the Attorney General, for Appellee)

Type of case: This is a criminal case tried to a jury on the charge of delivery of a controlled substance.

Proceedings below: Following a suppression hearing, the district court denied Cosey's motion to suppress evidence. Following a jury trial, Cosey was found guilty and sentenced to 3 to 5 years imprisonment.

Issues: Whether the trial court erred denying Cosey's motion to suppress.

Facts: The charges against Cosey stem from the sale of methamphetamine to a confidential informant. During the pendency of the case, Cosey filed a motion to suppress the confidential informant's identification of Cosey as the person from whom he purchased methamphetamine. Following a suppression hearing, the district court denied Cosey's motion to suppress. Cosey argues the method of identification was unduly suggestive to the point of violating his constitutional rights. Cosey argues the identification was irreparably tainted by the procedure of showing the confidential informant a picture of him rather than conducting a lineup. Cosey argues that because the identification was critical to the State's overall case against him and was not sufficiently reliable to overcome the unduly suggestive nature of the identification process, the State should have been precluded from offering it into evidence. Following a jury trial, Cosey was found guilty and sentenced to 3 to 5 years imprisonment.

Cosey now appeals. Both sides submitted written briefs to the Supreme Court. After hearing arguments from both sides at an oral argument before the Supreme Court, the Court will submit the case for disposition, and will issue an opinion in the coming months.
