S-22-0865 *State of Nebraska* (Appellee) v. *Angelina M. Clark* (Appellant)

Appeal from District Court for Lancaster County, Judge Darla S. Ideus

Attorneys: Candice C. Wooster (Brennan, Nielsen, & Wooster Law for Appellant) and Teryn R. Blessin (Asst. Attorney General for Appellee).

Criminal: Terroristic Threats, Third-Degree Sexual Assault, and Fair and Impartial Jury

Clark [Appellant] was charged with terroristic threats and third-degree sexual assault. At trial, an all-male jury heard evidence that Clark and Parker were acquaintances. In the early morning hours, Clark showed up, unannounced and intoxicated at Parker’s apartment, which she shared with her son [A.L., who was fifteen (15) years old]. Parker gave Clark a ride in a pickup, and A.L. accompanied them. During the trip, Clark touched A.L.’s genitals over his clothing, and after A.L. told Parker, she pulled over at a gas station, where a confrontation between Parker and Clark ensued. During this confrontation, Clark brandished a box cutter and threatened to kill Parker. The all-male jury returned guilty verdicts on both counts, and the district court sentenced Clark to one-year in prison for terroristic threats and to a consecutive six-month term of incarceration for third-degree sexual assault. On its own motion, the Supreme Court ordered this case to be transferred from the docket of the Court of Appeals to its docket.

On appeal, Clark argues that because the jury that convicted her lacked females, she was denied her right to a fair and impartial trial. She further asserts there was not enough evidence to convict her of terroristic threats. Finally, Clark contends that her trial counsel was ineffective by failing to object to hearsay evidence, failing to object to the all-male jury, and failing to file a pre-trial motion to keep out statements regarding the purchase of drugs. The State responds that although Clark is constitutionally guaranteed to a fair and impartial jury, she is not guaranteed of a jury made up of particular jurors, and she does not assert that any juror failed to be fair and impartial. Finally, the State asserts that the evidence was sufficient to convict Clark as charged and that Clark either waived or cannot prove she was prejudiced due to the other alleged errors. Both parties have had the opportunity to file briefs with the Nebraska Supreme Court, so the case is now ready to be argued. Each party will have ten minutes to argue the case before the Supreme Court and to answer questions from Supreme Court Justices.