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Court upholds constitutionality of 'reasonable doubt' definition

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The Colorado Supreme Court placed its stamp of approval on Monday on a revised definition of "reasonable doubt" that defendants have repeatedly challenged as unconstitutional in the three years since its unveiling.



To date, multiple Court of Appeals decisions have endorsed the constitutionality of the current phrasing, which resembles the instruction given in Colorado's federal trial court. U.S. Supreme Court Justice Ruth Bader Ginsburg characterized the wording in 1994 as a "clear, straightforward, and accurate" definition of reasonable doubt for jurors.

In evaluating the revised language, the state Supreme Court chose to review the case of Alexis Teran Sanchez, who Adams County jurors found guilty of three hit-and-run-related offenses. On appeal, he argued the new reasonable doubt instruction violated his rights to due process and a fair trial. The court disagreed.

"Teran Sanchez recognizes that other state courts have blessed the challenged language in similar instructions," wrote Justice Brian D. Boatright in the Sept. 14 opinion. "Our review of the 2023 Instruction, taken as a whole, reveals no concern that it lowers the burden of proof."

Prior to 2023, Colorado's template jury instructions for criminal cases contained a longstanding explanation of reasonable doubt: A doubt based upon reason and common sense, which was not vague or speculative, that would "cause reasonable people to hesitate to act in matters of importance to themselves."

Then, in January 2023, the judicial branch announced that a small group of judges had voted to change the language of the model instruction. The committee included two members of the Supreme Court — Justices Carlos A. Samour Jr., who chairs the panel, and Susan Blanco, who was then a Larimer County trial judge. The vote was not unanimous, although the committee did not disclose who voted to revise. Both Samour and Blanco participated in Teran Sanchez's appeal.

The instruction now advises jurors to vote to convict if they are "firmly convinced of the defendant's guilt." The prosecution has not proven guilt, the instruction continues, "if you think there is a real possibility that the defendant is not guilty."

Defense attorneys were concerned the change lessened the prosecution's burden to prove a defendant guilty. The state's Court of Appeals has issued multiple decisions upholding the new wording as constitutional, but Judges Daniel M. Taubman and Michael H. Berger have repeatedly argued that the "real possibility" phrasing unconstitutionally assumes the defendant's guilt, among other problems.

To the Supreme Court, Teran Sanchez's lawyers employed an unusual method of challenging the language. In significant part, they relied on a study that they funded through the University of Denver's Department of Psychology, which featured 896 U.S. citizen participants recruited online. The participants read about a crime and received five variations of the reasonable doubt instruction. Those included the version from Teran Sanchez's trial, the old instruction, and two versions that the U.S. or state supreme courts have found unconstitutional.

The simulated jury verdicts suggested that the current language may slightly increase conviction rates over the previous instruction.

During oral arguments, Justice Richard L. Gabriel said it gave him "a little bit of heartburn" that Teran Sanchez's lawyers commissioned the study in connection with their case.

"I don't mean to impugn the integrity of these professors at all, or your firm," he said. "I suppose what I'm more concerned about was the fairness of that to the district attorney. We see this study for the first time" on appeal.

Blanco noted that the study participants were seemingly given a definition of reasonable doubt, but without the full battery of instructions that criminal jurors receive in a real trial.

"You're studying this one instruction by itself and there is no context for how does that translate to the courtroom and what's going on in an actual trial," she said.

Teran Sanchez's attorneys also argued the "modern usage" of key phrases in the instruction would lead ordinary jurors to interpret "real possibility" and "firmly convinced" to be less favorable to a defendant's rights than they are intended to be.

The Supreme Court rejected all of those contentions.

Common understandings of the instructional language "in no way suggest a lower burden than proof beyond a reasonable doubt," wrote Boatright.

As for the DU study, Boatright continued, participants "individually responding to online surveys do not equate to an actual jury deliberation with the benefit of a trial judge's additional instructions. Nor can online jury surveys replicate the group dynamics of a real jury room where jurors aid one another in reaching a common understanding of the instructions during in-person deliberations."

Moreover, because trial judges are responsible for addressing statistical evidence in the first place, the Supreme Court did "not give much credence" to the study, Boatright added.

The court concluded that the challenged language still places the burden on the prosecution to prove a defendant guilty beyond a reasonable doubt and does not improperly lower the threshold to convict.