

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

People v. Hansel

2021 NY Slip Op 07035 (N.Y. Ct. App. 2021) · No. 112134; 112520 · Decided December 16, 2021

SUMMARY

The Appellate Division, Third Department reversed Raymond A. Hansel's convictions for predatory sexual assault against a child and three counts of first-degree rape, remitting for a new trial. The court held that evidence concerning the frequency of the defendant's sexual relations with the victim's mother was improperly admitted because it invited speculation and was not relevant to a material issue; the error was not harmless because the evidence was not overwhelming. The court found that expert testimony regarding child sexual abuse accommodation syndrome was properly limited, and dismissed the appeal from the order denying the CPL 440.10 motion as academic.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Reynolds Fitzgerald, J.; Garry, P.J.; Egan Jr., J.; Aarons, J.; Colangelo, J.
JURISDICTION	New York
DECIDED	December 16, 2021
DOCKET	112134; 112520
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a judgment of conviction after a jury trial and, by permission, from an order denying his CPL 440.10 motion to vacate the conviction without a hearing.
STANDARD OF REVIEW	On weight-of-the-evidence review, the court independently evaluates the relative probative force of conflicting testimony and inferences in a neutral light while deferring to the jury's credibility determinations. Evidentiary error is not harmless unless the proof of guilt is overwhelming under New York's harmless-error rule.
PRECEDENTIAL VALUE	published
PARTIES	Raymond A. Hansel v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the convictions were against the weight of the evidence because the victim's testimony was incredible or lacked credibility.
2. Whether County Court improperly admitted the victim's mother's testimony about the declining frequency of her sexual relations with defendant as circumstantial evidence that defendant sexually abused the victim.
3. Whether the evidentiary error was harmless.
4. Whether expert testimony concerning child sexual abuse accommodation syndrome was properly admitted without comparing the syndrome to the facts of the case or opining on the victim's credibility.
5. Whether defendant's remaining direct-appeal and CPL article 440 claims required review.

HOLDINGS

1. The convictions were not against the weight of the evidence. Although a contrary verdict would not have been unreasonable, the victim's inconsistencies, delayed disclosure, and propensity for lying presented credibility issues for the jury, and her testimony was not incredible as a matter of law.
2. County Court erred by admitting testimony about the significant decline in the frequency of defendant's sexual relations with the victim's mother because that testimony did not tend to prove a material element, the parties' relationship, or an integral sequence of events, and instead invited speculation that defendant had replaced the mother with the victim as a sexual partner.
3. The erroneous admission of the sexual-climate testimony was not harmless because the proof of defendant's guilt was not overwhelming and the case substantially depended on the credibility of the victim and defendant.
4. The expert testimony was properly admitted because the expert limited her testimony to educating the jury about child sexual abuse accommodation syndrome, did not compare the syndrome to the facts of the case, and did not opine on the victim's credibility or whether abuse occurred.

KEY QUOTATIONS

*“An inference is not a suspicion or a guess. It is a reasoned, logical decision to conclude that a disputed fact exists on the basis of another fact that is known to exist” (*4)*

*“It is axiomatic that evidence bearing on the sexual climate of a household is inadmissible where it does not tend to prove a material element of the crime charged and is introduced simply to demonstrate a predisposition to commit the subject offense” (*4)*

FACTUAL BACKGROUND

The victim alleged that defendant, her mother's former husband, sexually abused her over approximately four years beginning when she was eight years old. The prosecution presented the victim's testimony, medical evidence of a hymenal dissection consistent with sexual abuse, and expert testimony concerning common behaviors of child sexual-abuse victims. Defendant denied the abuse and presented evidence that his work schedule and other circumstances limited opportunities to be alone with the victim.

PROCEDURAL HISTORY

Defendant was indicted for predatory sexual assault against a child and four counts of first-degree rape. After trial, a jury convicted him of predatory sexual assault against a child and three counts of first-degree rape, and County Court sentenced him to concurrent prison terms. County Court later denied defendant's CPL 440.10 motion based on newly discovered evidence. The Appellate Division reversed the judgment because the trial court improperly admitted evidence concerning the frequency of defendant's sexual relations with the victim's mother, remanded for a new trial, and dismissed as academic the appeal from the postconviction order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remitted to the County Court of Broome County for a new trial. The appeal from the order denying defendant's CPL 440.10 motion was dismissed as academic.

CASES CITED

- People v. Cummings, 188 AD3d 1449, 1450 (2020)
- People v. Santana, 179 AD3d 1299, 1300 (2020)
- People v. Watkins, 180 AD3d 1222, 1230 (2020)
- People v. Werkheiser, 171 AD3d 1297, 1301 (2019)
- People v. Kelsey, 174 AD3d 962, 964 (2019)
- People v. Bieganowski, 104 AD3d 1276, 1277 (2013)
- People v. Reynolds, 81 AD3d 1166, 1167 (2011)
- People v. Horton, 173 AD3d 1338, 1340 (2019)
- People v. Farnham, 136 AD3d 1215, 1217 (2016)
- People v. Primo, 96 NY2d 351, 355 (2001)
- People v. Taylor, 196 AD3d 851, 854 (2021)
- United States v. Pauling, 924 F3d 649, 656 (2d Cir. 2019)
- People v. Seaman, 239 AD2d 681, 681 (1997)
- People v. Mercado, 188 AD2d 941, 943 (1992)
- People v. Crimmins, 36 NY2d 230, 241 (1975)

- People v. Adams, 135 AD3d 1154, 1157 (2016)
- People v. Gooley, 156 AD3d 1231, 1233 (2017)
- People v. Gokey, 134 AD3d 1246, 1247 (2015)

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