

SUPREME COURT OF NEBRASKA

State v. Bigelow

303 Neb. 729 (2019) · No. No. S-18-006 · Decided July 19, 2019

SUMMARY

The Nebraska Supreme Court affirmed the Court of Appeals' decision upholding Shannon D. Bigelow's conviction for third degree assault on an officer. The court held that the evidence did not support a proposed insanity instruction because it showed drug-related impairment rather than a mental disease or defect, but did support an instruction addressing voluntary and involuntary intoxication. The court further held that the intoxication instruction correctly stated Nebraska law, was not misleading, and adequately covered the evidence.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	July 19, 2019
DOCKET	No. S-18-006
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Nebraska Supreme Court granted Bigelow's petition for further review of a Nebraska Court of Appeals decision affirming his conviction for third degree assault on an officer. The Supreme Court affirmed the Court of Appeals.
STANDARD OF REVIEW	Whether jury instructions are correct is a question of law reviewed independently. To establish reversible error from refusal to give a requested instruction, the appellant must show that the instruction was a correct statement of law, warranted by the evidence, and that its refusal prejudiced the appellant. Unobjected-to instructions are reviewed for plain error.
PRECEDENTIAL VALUE	Published and precedential Nebraska Supreme Court opinion.
PARTIES	State of Nebraska v. Shannon D. Bigelow

TOPICS

jury instructions

criminal procedure

standard of review

lesser included offense instructions

evidence

PRACTICE AREAS

criminal procedure

criminal law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence warranted Bigelow's proposed jury instruction on the insanity defense.
2. Whether the evidence supported an instruction on voluntary and involuntary intoxication.
3. Whether the intoxication instruction correctly stated Nebraska law, was not misleading, and adequately covered the issues supported by the evidence.

HOLDINGS

1. The district court properly refused the proposed insanity-defense instruction because the evidence did not establish that Bigelow suffered from a mental disease or defect at the time of the offense.
2. The evidence supported an instruction addressing both voluntary and involuntary intoxication.
3. The intoxication instruction correctly stated the law, was not misleading, and adequately covered the intoxication issues supported by the pleadings and evidence.

KEY QUOTATIONS

“Although a successful insanity defense operates as a complete defense to the offense, the intoxication defense does not and instead is treated as a factor the jury may consider when determining whether the defendant had the requisite mental state.” (736-737)

“Without evidence linking intoxication to a mental disease or defect or disorder, there is no evidence to support an insanity defense.” (739)

“We believe that under § 29-122, use of medically advised drugs could be involuntary intoxication if the defendant did not know the intoxicating effect of the drug or did not voluntarily take the drug.” (740)

“Under these standards, we conclude the intoxication instruction given by the court in this case correctly stated the law as set forth in § 29-122” (742)

FACTUAL BACKGROUND

After ingesting methamphetamine and exhibiting bizarre behavior, Shannon D. Bigelow was admitted to a hospital emergency room. Hospital personnel administered Haldol, Ativan, and Benadryl, after which Bigelow became more agitated, assaulted an off-duty police officer working hospital security, and attempted to reach for the officer's gun. Bigelow's expert attributed his behavior to a temporary drug-induced impairment from the hospital medications, not to a mental disease or defect. The district court refused an insanity instruction but gave an instruction addressing both voluntary and involuntary intoxication.

PROCEDURAL HISTORY

Bigelow was convicted in the Lancaster County District Court of third degree assault on an officer and was found to be a habitual criminal. He was sentenced to a mandatory minimum of 10 years and a maximum of 12 years' imprisonment. The Court of Appeals affirmed, rejecting challenges to the refusal of an insanity-defense instruction and the giving of an intoxication instruction. The Nebraska Supreme Court granted further review and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Mann, 302 Neb. 804, 925 N.W.2d 324 (2019)
- State v. Williams, 295 Neb. 575, 889 N.W.2d 99 (2017)
- State v. Dubray, 289 Neb. 208, 239, 854 N.W.2d 584, 611-12 (2014)
- State v. Hotz, 281 Neb. 260, 270, 795 N.W.2d 645, 653 (2011)
- State v. Hood, 301 Neb. 207, 217, 917 N.W.2d 880, 889 (2018)
- State v. Vosler, 216 Neb. 461, 345 N.W.2d 806 (1984)
- State v. Mueller, 301 Neb. 778, 920 N.W.2d 424 (2018)
- State v. Abejide, 293 Neb. 687, 879 N.W.2d 684 (2016)
- State v. Bigelow, No. A-18-006, 2019 WL 286641 (Neb. App. Jan. 22, 2019)