

SUPREME COURT OF SOUTH CAROLINA

State v. Douglas, 380 S.C. 499

671 S.E.2d 606 (2009) · No. No. 26577 · Decided January 12, 2009

SUMMARY

The Supreme Court of South Carolina held that a victim-assistance officer’s testimony about her personal observations, child-interviewing practices, and recommendation for a medical examination did not require expert qualification. The court reversed in part the Court of Appeals’ ruling upholding the expert qualification but affirmed the result because the testimony did not improperly vouch for the victim’s credibility and caused no prejudice. Justice Pleicones dissented, concluding that the testimony was prejudicial in a case turning largely on credibility.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Waller, J.; Toal, C.J.; Beatty, J.; Kittredge, J.; Pleicones, J.
JURISDICTION	South Carolina
DECIDED	January 12, 2009
DOCKET	No. 26577
DISPOSITION	reversed
PROCEDURAL POSTURE	Douglas petitioned for a writ of certiorari to review the South Carolina Court of Appeals' affirmance of his conviction and the trial court's qualification of Gwen Herod as an expert in forensic interviewing. The Supreme Court of South Carolina affirmed the result reached by the Court of Appeals but reversed the portion of its opinion upholding Herod's qualification as an expert.
STANDARD OF REVIEW	The qualification of an expert witness is reviewed for abuse of discretion. The admissibility and prejudicial effect of the testimony were reviewed in determining whether reversal was warranted.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	William R. Douglas v. The State

TOPICS

- expert testimony
- evidence
- character evidence
- harmless error
- appellate procedure

PRACTICE AREAS

criminal evidence

expert and lay witness testimony

child sexual abuse prosecution

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by qualifying Gwen Herod as an expert in forensic interviewing when her testimony concerned her personal observations, experiences, interview practices, and recommendation for a medical examination.
2. Whether Herod's testimony improperly vouched for the victim's veracity or was unfairly prejudicial under Rule 403 of the South Carolina Rules of Evidence.
3. Whether any error in qualifying Herod as an expert or admitting her testimony required reversal.

HOLDINGS

1. Under the facts of this case, Herod's testimony did not require expert qualification because it concerned her personal observations, experiences, the manner in which she conducted the interview, and her recommendation that the victim receive a medical examination.
2. Herod's testimony did not vouch for the victim's veracity, and the Court of Appeals erred in holding that the only reasonable inference from the testimony was that Herod believed the victim was telling the truth.
3. Any error in qualifying Herod as an expert or admitting her testimony was harmless because Douglas suffered no prejudice.
4. A witness's qualification as an expert does not require the jury to give that witness's testimony greater weight than the testimony of any other witness.

KEY QUOTATIONS

"We find the testimony given by Herod in the present case simply was not required to be presented by an expert witness." (380 S.C. at 502)

"Accordingly, the Court of Appeals' holding that the only reasonable inference is that Herod believed Victim was telling the truth is reversed." (380 S.C. at 504)

"In light of this evidence, there is no conceivable prejudice to Douglas from Herod's testimony." (380 S.C. at 504)

"This testimony simply did not need to be in the form of expert testimony." (380 S.C. at 504)

FACTUAL BACKGROUND

William R. Douglas was convicted of committing a lewd act on a minor who testified that Douglas molested her when she was seven. Gwen Herod, a Sumter County victim-assistance officer, interviewed the child using the RATA method and testified about her interviewing practices and her recommendation that the child receive a medical examination. The trial court qualified Herod as an expert in forensic interviewing, and the resulting medical examination found vaginal tearing and scarring consistent with past penetration.

PROCEDURAL HISTORY

Douglas was convicted of committing a lewd act on a minor. The trial court qualified victim-assistance officer Gwen Herod as an expert in forensic interviewing and admitted her testimony. The Court of Appeals affirmed, concluding the qualification was within the trial court's discretion and that any error was harmless. On certiorari, the Supreme Court held expert qualification was unnecessary under the facts but found no prejudice and affirmed the result while reversing the Court of Appeals' reasoning concerning vouching.

DISPOSITION

reversed

CASES CITED

- State v. Douglas, 367 S.C. 498, 626 S.E.2d 59 (2006)
- State v. Williams, 321 S.C. 455, 469 S.E.2d 49 (1996)
- Anderson v. Campbell Tile Co., 202 S.C. 54, 24 S.E.2d 104 (1943)
- State v. Milian-Hernandez, 287 S.C. 183, 186, 336 S.E.2d 476, 478 (1985)
- State v. Schumpert, 312 S.C. 502, 435 S.E.2d 859 (1993)
- Fields v. J. Haynes Waters Builders, Inc., 376 S.C. 545, 658 S.E.2d 80 (2008)
- State v. Ellis, 345 S.C. 175, 178, 547 S.E.2d 490, 492 (2001)
- Kilby v. Commonwealth, 52 Va. App. 397, 663 S.E.2d 540 (2008)
- Golden v. State, 984 So. 2d 1026 (Miss. Ct. App. 2008)
- Lattimer v. State, 952 So. 2d 206 (Miss. Ct. App. 2006)
- Mooneyham v. Mississippi, 915 So. 2d 1102 (Miss. Ct. App. 2005)
- State v. Speers, 209 Ariz. 125, 98 P.3d 560, 566 (Ct. App. 2004)
- In re A.H., 259 Ga. App. 608, 578 S.E.2d 247 (2003)
- State v. Thompson, 71 Conn. App. 8, 799 A.2d 1126 (2002)
- Siharath v. State, 246 Ga. App. 736, 737-738, 541 S.E.2d 71 (Ga. Ct. App. 2000)
- Louisiana v. Hilton, 764 So. 2d 1027 (La. Ct. App. 2000)
- Baggerly v. CSX Transportation, Inc., 370 S.C. 362, 635 S.E.2d 97 (2006)