

SUPREME COURT OF COLORADO

People v. Salazar

272 P.3d 1067 (Colo. 2012) · Decided March 19, 2012

SUMMARY

The Colorado Supreme Court held that the trial court abused its discretion by admitting evidence of an alleged alternative suspect's prior sexual conduct in a sexual-assault prosecution. The court concluded that the evidence had minimal probative value on identity and posed a substantial risk of confusing or misleading the jury under CRE 403, made its rule absolute, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Boatright
JURISDICTION	Colorado
DECIDED	March 19, 2012
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The People sought original relief under C.A.R. 21 from a trial-court order admitting evidence of an alternative suspect's alleged prior sexual conduct in a prosecution for sexual assault on a child.
STANDARD OF REVIEW	Relevancy determinations are reviewed for abuse of discretion. Abuse of discretion occurs when the trial court's decision is manifestly arbitrary, unreasonable, or unfair.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado
PARTIES	The People of the State of Colorado v. Yrineo Salazar

TOPICS

relevance evidence appellate jurisdiction interlocutory appeal standard of review

PRACTICE AREAS

Colorado criminal law criminal evidence appellate procedure

QUESTIONS PRESENTED

1. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21 to review the trial court's pretrial evidentiary ruling.
2. Whether evidence of an alternative suspect's alleged prior sexual conduct with someone other than the victim was relevant and admissible to challenge the victim's identification.
3. Whether the evidence, even if relevant under the rape shield statute, was subject to exclusion because its probative value was substantially outweighed by the danger of confusing the issues and misleading the jury.
4. Whether the trial court abused its discretion by admitting the evidence.

HOLDINGS

1. The Colorado Supreme Court properly exercised original jurisdiction to review the trial court's evidentiary ruling because the People could not obtain an interlocutory appeal and an erroneous evidentiary ruling might not have an adequate remedy on appeal.
2. Evidence that an alternative suspect had motive or opportunity, combined with alleged prior sexual conduct that is not distinctive or unusual enough to constitute a perpetrator signature, is not sufficiently relevant to connect that suspect to the charged offense.
3. The evidence was not admissible under the rape shield statute's physical-evidence exception because that exception is limited to evidence concerning the source or origin of semen, pregnancy, disease, or similar physical evidence; identity evidence that does not concern such physical aspects must proceed under the statute's material-issue provision.
4. Even assuming the alleged prior sexual conduct was relevant under section 18-3-407(2), it had to be excluded because its minimal probative value was substantially outweighed by the danger of confusing the issues and misleading the jury.

KEY QUOTATIONS

“However, the right to present a defense is not absolute; the Constitution requires only that the accused be permitted to introduce all relevant and admissible evidence.” (272 P.3d at 1072)

“The circular nature of the relevancy argument in this case is that the evidence offered to connect A.G. to the assault against M.L. requires an inference of propensity based on previous sexual acts with another person.” (272 P.3d at 1074)

“The danger of confusing the issues and misleading the jury substantially outweighs the minimal probative value, if any, of prior sexual conduct evidence to the identity of the perpetrator in this case.” (272 P.3d at 1075)

FACTUAL BACKGROUND

The prosecution alleged that Salazar sexually assaulted M.L., an eight-year-old child, while she was staying at her maternal grandparents' home. M.L. identified Salazar, her uncle by marriage, but her disclosures contained inconsistencies regarding what she saw, when she saw him, and whether she was wearing her prescription glasses; the lighting was also limited. Salazar sought to introduce testimony that M.L.'s grandfather, A.G., had

previously sexually abused A.G.'s daughter in a similar manner and had been present in the house during the alleged assaults, arguing that A.G. could have been the perpetrator.

PROCEDURAL HISTORY

Salazar was charged with sexual assault on a child and sexual assault on a child pattern of abuse. Before trial, he moved to introduce evidence that the alleged alternative suspect, A.G., had sexually abused A.G.'s daughter, who was the defendant's relative, and argued that the evidence supported misidentification and showed A.G.'s motive and opportunity. After an evidentiary hearing, the trial court found the evidence admissible under the rape shield statute and relevant to identity. The People petitioned for relief under C.A.R. 21 because no interlocutory appeal was available and an erroneous admission of the evidence might not be adequately remedied on appeal.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The rule was made absolute, and the case was remanded to the trial court for further proceedings consistent with the opinion, including exclusion of the challenged evidence under the principles stated by the Supreme Court.

CASES CITED

- People v. Null, 233 P.3d 670, 675 (Colo. 2010)
- People v. Harris, 43 P.3d 221, 225, 227 (Colo. 2002)
- Yusem v. People, 210 P.3d 458, 463 (Colo. 2009)
- People v. Melillo, 25 P.3d 769, 774 n. 3 (Colo. 2001)
- Holmes v. South Carolina, 547 U.S. 319, 324-27, 126 S. Ct. 1727, 164 L. Ed. 2d 503 (2006)
- Krutsinger v. People, 219 P.3d 1054, 1061 (Colo. 2009)
- People v. Flowers, 644 P.2d 916, 917-20 (Colo. 1982)
- People v. Welsh, 80 P.3d 296, 307 (Colo. 2003)
- People ex rel. R.L., 660 P.2d 26, 28 (Colo. App. 1983)
- Stull v. People, 140 Colo. 278, 344 P.2d 455 (1959)
- People v. Bueno, 626 P.2d 1167, 1168-70 (Colo. App. 1981)
- People ex rel. K.N., 977 P.2d 868, 872-73 (Colo. 1999)
- People v. Williamson, 249 P.3d 801, 802 (Colo. 2011)
- People v. MacLeod, 176 P.3d 75, 76-77, 81 (Colo. 2008)
- People v. Mulligan, 193 Colo. 509, 518, 568 P.2d 449, 456 (1977)
- People v. Perez, 972 P.2d 1072, 1074-75 (Colo. App. 1999)
- People v. Villa, 240 P.3d 343, 354 (Colo. App. 2010)