

SUPREME COURT OF IOWA

State of Iowa v. Patrick Michael Dudley

Dudley · No. 12-0729 · Decided December 5, 2014

SUMMARY

The Iowa Supreme Court affirmed the court of appeals’ decision, reversed Patrick Michael Dudley’s convictions for two counts of second-degree sexual abuse, and remanded for a new trial. The court held that the State did not breach the plea agreement, but that expert testimony indirectly vouching for the victim’s credibility was inadmissible and prejudicial. The court also addressed the admissibility of the victim’s alleged excited utterances and impeachment evidence involving a witness’s prior conviction for proceedings on remand.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Wiggins, Justice
JURISDICTION	Iowa
DECIDED	December 5, 2014
DOCKET	12-0729
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought further review of a Iowa Court of Appeals decision reversing Dudley's convictions and ordering a new trial because the district court admitted expert testimony that impermissibly vouched for the victim's credibility.
STANDARD OF REVIEW	A motion to dismiss for alleged repudiation of a plea agreement is reviewed for abuse of the district court's limited discretion. Hearsay rulings are reviewed for correction of errors at law, with reversal required for prejudicial error unless the contrary is shown. Other evidentiary rulings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential
PARTIES	Patrick Michael Dudley v. State of Iowa

TOPICS

- expert testimony
- hearsay
- impeachment
- plea bargaining
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the State was required to honor a plea offer conditioned on Dudley's successful completion of a polygraph examination.
2. Whether expert testimony that the victim's symptoms and physical manifestations were consistent with sexual-abuse trauma impermissibly vouched for the victim's credibility.
3. Whether the forensic interviewer's testimony about the consistency of the victim's account, recommendations for therapy and no contact, and lack of coaching concerns impermissibly vouched for the victim's credibility.
4. Whether the victim's statements to a neighbor qualified as excited utterances under Iowa Rule of Evidence 5.803(2).
5. Whether the district court properly excluded a more-than-twenty-year-old theft conviction offered to impeach a witness under Iowa Rule of Evidence 5.609.

HOLDINGS

1. The State was not required to honor the plea offer because it clearly withdrew the offer before Dudley took the polygraph examination or notified the county attorney that he was arranging to take it, and Dudley did not detrimentally rely on the offer.
2. An expert may not testify that the specific victim's physical manifestations or symptoms were consistent with sexual-abuse trauma because that testimony indirectly vouches for the victim's credibility and invades the jury's function.
3. The forensic interviewer's testimony that the victim's account remained consistent and that therapy was not problematic in terms of coaching did not impermissibly vouch for credibility, but her testimony that she recommended therapy and no contact because she believed Dudley sexually abused the victim did impermissibly vouch for credibility.
4. The victim's statements to the neighbor did not qualify as excited utterances under Iowa Rule of Evidence 5.803(2) and should not be admitted on retrial.
5. The district court failed to perform the balancing required by Iowa Rule of Evidence 5.609 for a theft conviction outside the rule's ordinary time limit; on retrial, the court must conduct the required probative-value-versus-prejudice analysis.

KEY QUOTATIONS

"We see no reason to overturn this well-settled Iowa law prohibiting an expert witness from commenting on the credibility of a victim in a criminal sex abuse proceeding." (11-12)

"Our system of justice vests the jury with the function of evaluating a witness's credibility." (12)

“To allow an expert witness to testify a child’s physical manifestations or symptoms are consistent with sexual abuse trauma or CSAAS allows the expert witness to indirectly vouch that the victim was telling the truth because the expert opines the symptoms are consistent with child abuse.” (13-14)

“B.O.’s statements to Korinek were not spontaneous in reaction to a startling event, but rather an upset child telling her story to a neighbor and friend after she no longer felt the urgent need to disclose the information to someone safe.” (18-19)

FACTUAL BACKGROUND

Patrick Dudley traveled to Iowa with his wife and their ten-year-old granddaughter, B.O. B.O. alleged that Dudley touched her vagina on two nights during the trip and disclosed the allegations after returning home. At trial, a treating psychologist testified that B.O.’s symptoms were consistent with sexual-abuse trauma, a forensic interviewer testified about the consistency of B.O.’s account and lack of coaching concerns, and a neighbor testified to B.O.’s disclosures. Dudley was convicted on both charges.

PROCEDURAL HISTORY

Dudley was charged with and convicted by a jury of two counts of second-degree sexual abuse. The district court denied his motion to enforce a plea agreement and admitted the challenged expert and hearsay testimony while excluding impeachment evidence concerning a witness’s old theft conviction. The Iowa Court of Appeals held that the plea agreement was not enforceable but reversed and remanded for a new trial based on impermissible expert vouching. The Supreme Court of Iowa granted further review, affirmed the Court of Appeals, reversed the district court judgment, and remanded for a new trial with instructions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must conduct a new trial. On retrial, it must not admit the victim’s statements to the neighbor under the excited-utterance exception, must exclude expert testimony that directly or indirectly vouches for the victim’s credibility, and must revisit admission of the witness’s old theft conviction under Iowa Rule of Evidence 5.609.

CASES CITED

- State v. Hovind, 431 N.W.2d 366, 368 (Iowa 1988)
- State v. King, 576 N.W.2d 369, 370 (Iowa 1998) (per curiam)
- State v. Myers, 382 N.W.2d 91, 97 (Iowa 1986)
- State v. Gettier, 438 N.W.2d 1, 6 (Iowa 1989)
- State v. Payton, 481 N.W.2d 325, 327 (Iowa 1992)
- State v. Hildreth, 582 N.W.2d 167, 169-70 (Iowa 1998)
- State v. Hulbert, 481 N.W.2d 329, 332 (Iowa 1992)

- State v. Frake, 450 N.W.2d 817, 819 (Iowa 1990)
- State v. Harper, 770 N.W.2d 316, 319 (Iowa 2009)
- State v. Atwood, 602 N.W.2d 775, 782 (Iowa 1999)
- State v. Hy, 458 N.W.2d 609, 611 (Iowa Ct. App. 1990)
- State v. Brown, 341 N.W.2d 10, 13 (Iowa 1983)
- State v. Tejeda, 677 N.W.2d 744, 753-54 (Iowa 2004)
- State v. Parker, 747 N.W.2d 196, 208 (Iowa 2008)
- State v. Favoccia, 51 A.3d 1002, 1009, 1012-26 (Conn. 2012)
- People v. Spicola, 947 N.E.2d 620, 635, 639 (N.Y. 2011)
- Wheat v. State, 527 A.2d 269, 274-75 (Del. 1987)
- State v. Foret, 628 So. 2d 1116, 1130 (La. 1993)
- Commonwealth v. LaCaprucia, 671 N.E.2d 984, 985 (Mass. App. Ct. 1996)
- State v. Chamberlain, 628 A.2d 704, 707 (N.H. 1993)
- State v. Michaels, 625 A.2d 489, 499-502 (N.J. Super. Ct. App. Div. 1993), aff'd, 642 A.2d 1372 (N.J. 1994)
- United States v. Lukashov, 694 F.3d 1107, 1116 (9th Cir. 2012)
- Steward v. State, 636 N.E.2d 143, 146 (Ind. Ct. App. 1994), aff'd, 652 N.E.2d 490 (Ind. 1995)
- State v. McIntosh, 58 P.3d 716, 728-30 (Kan. 2002)
- State v. Stowers, 690 N.E.2d 881, 883 (Ohio 1998)
- People v. Nelson, 561 N.E.2d 439, 444 (Ill. App. Ct. 1990)
- People v. Beckley, 456 N.W.2d 391, 399 (Mich. 1990)
- People v. Bowker, 249 Cal. Rptr. 886, 891 (Cal. Ct. App. 1988)
- People v. Peterson, 537 N.W.2d 857, 873 (Mich. 1995)
- Commonwealth v. Deloney, 794 N.E.2d 613, 623 (Mass. App. Ct. 2003)
- State v. Sims, 608 A.2d 1149, 1154 (Vt. 1992)
- People v. Ciaccio, 391 N.E.2d 1347, 1351 (N.Y. 1979)
- State v. Frank, 298 N.W.2d 324, 327 (Iowa 1980)
- State v. Gartin, 271 N.W.2d 902, 910-11 (Iowa 1978)
- State v. Paredes, 775 N.W.2d 554, 571 (Iowa 2009)