

DISTRICT OF COLUMBIA COURT OF APPEALS

Cynthia Sanchez v. District of Columbia

102 A.3d 1157 (D.C. 2014) · No. 13-CT-128 · Decided November 6, 2014

SUMMARY

The District of Columbia Court of Appeals held that the trial court erroneously exercised its discretion by excluding the defense expert from hearing the cross-examination of the government’s fact and expert witness. The court concluded that the exclusion prejudiced the defendant’s ability to evaluate the administration of field sobriety tests and to assist counsel during cross-examination. The court reversed Sanchez’s conviction for driving under the influence.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Newman, Senior Judge; Beckwith, Associate Judge; McLeese, Associate Judge
JURISDICTION	District of Columbia
DECIDED	November 6, 2014
DOCKET	13-CT-128
DISPOSITION	reversed
PROCEDURAL POSTURE	Sanchez appealed from a Superior Court bench-trial judgment in a prosecution for driving under the influence. She challenged the trial judge's sua sponte exclusion of the defense expert from hearing part of the government's expert's testimony and related limitations on the defense.
STANDARD OF REVIEW	A decision to invoke the rule on witnesses is reviewed for abuse of discretion. An erroneous exercise of discretion warrants reversal when, considering the totality of the circumstances, the error jeopardized the fairness of the proceeding as a whole or had a substantial impact on the outcome.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Cynthia Sanchez v. District of Columbia

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by sua sponte excluding the defense expert from hearing the government's expert's cross-examination and demonstration of the sobriety tests.
2. Whether the erroneous exclusion of the defense expert was prejudicial and required reversal.
3. Whether the trial judge's alleged advocacy and limitation of cross-examination independently violated Sanchez's due process or Confrontation Clause rights.

HOLDINGS

1. The trial court erroneously exercised its discretion by excluding the defense expert from the courtroom during the government's expert's cross-examination without identifying a valid reason and without allowing the defense to show why the expert's presence was essential to the presentation of the defense.
2. The erroneous exclusion of Palacios prejudiced Sanchez and constituted an abuse of discretion requiring reversal.

KEY QUOTATIONS

“The Federal Rules of Evidence and our prior decisions have established that the presence in the courtroom of expert witnesses is the norm, subject to exceptions.” (at 1163)

“The right to present expert witnesses perforce includes the need to afford the expert appropriate means of gathering the “facts and data” upon which to base an opinion.” (at 1164)

FACTUAL BACKGROUND

Sanchez was prosecuted for driving under the influence after U.S. Capitol Police Officer Carll stopped her, administered horizontal gaze nystagmus, walk-and-turn, and one-leg-stand sobriety tests, and arrested her. Carll testified as both a fact witness and an expert regarding the tests and Sanchez's performance. The defense expert, Palacios, needed to observe Carll demonstrate how he administered the tests and to hear his cross-examination testimony in order to assess the methodology and assist defense counsel, but the trial judge excluded Palacios from that portion of the trial. Palacios nevertheless identified methodological defects, while another defense expert testified that a hypothetical person's blood-alcohol concentration would have been between 0 and 0.04 at arrest.

PROCEDURAL HISTORY

Sanchez was tried before the Superior Court of the District of Columbia for driving under the influence under D.C. Code § 50-2201.05(b)(1). During the government's expert's cross-examination, the trial judge excluded the defense expert from the courtroom, preventing him from observing the government's demonstration of the

sobriety tests and from assisting defense counsel during cross-examination. The Superior Court credited the government's witness in material part, and the Court of Appeals reversed because the exclusion was an erroneous exercise of discretion that prejudiced Sanchez.

DISPOSITION

reversed

CASES CITED

- James W. Johnson v. United States, 398 A.2d 354, 365-66 & n.9 (D.C. 1979)
- Pennsylvania v. Muniz, 496 U.S. 582, 585 n.1 (1990)
- Bedrosian v. Wong Kok Chung, 33 A.2d 811, 812 (D.C. 1943)
- Garmon v. United States, 684 A.2d 327, 328-29 (D.C. 1996)
- James Johnson v. District of Columbia, 655 A.2d 316, 317-19 (D.C. 1995) (per curiam)
- Matthews v. United States, 267 A.2d 826, 829 (D.C. 1970)
- In re Amey, 40 A.3d 902, 910 (D.C. 2012)
- In re M.L., 28 A.3d 520, 530 n.21 (D.C. 2011)
- Morvant v. Construction Aggregates Corp., 570 F.2d 626, 629-30 (6th Cir.), cert. dismissed, 439 U.S. 801 (1978)
- Polythane Systems v. Marina Ventures International, 993 F.2d 1201, 1209-10 (5th Cir.), cert. denied, 510 U.S. 1116 (1994)
- United States v. Lussier, 929 F.2d 25, 30 (1st Cir. 1991)
- United States v. Burgess, 691 F.2d 1146, 1157 (4th Cir. 1982)
- Malek v. Federal Insurance Co., 994 F.2d 49, 53-54 (2d Cir. 1993)
- McKenzie v. United States, 659 A.2d 838, 841 (D.C. 1995)
- Johnson v. United States, 636 A.2d 978, 981 (D.C. 1994)
- Chambers v. Mississippi, 410 U.S. 284, 302 (1973)
- Taylor v. Illinois, 484 U.S. 400 (1988)
- Benn v. United States, 978 A.2d 1257, 1269-70 (D.C. 2009)
- Robinson v. United States, 50 A.3d 508, 523 (D.C. 2012)
- Kotteakos v. United States, 328 U.S. 750, 765 (1946)
- Goines v. United States, 905 A.2d 795, 802 (D.C. 2006)
- In re L.C., 92 A.3d 290, 299-300 (D.C. 2014)
- King v. United States, 75 A.3d 113, 120 (D.C. 2013)
- Heath v. United States, 26 A.3d 266, 281 (D.C. 2011)
- Russell v. United States, 17 A.3d 581, 588-89 (D.C. 2011)
- In re L.L., 974 A.2d 859, 865 (D.C. 2009)
- Pannu v. Jacobson, 909 A.2d 178, 199 (D.C. 2006)

- Mercer v. United States, 724 A.2d 1176, 1194 (D.C. 1999)
- Haughton v. Byers, 398 A.2d 18, 20-21 (D.C. 1979)
- Knapp v. Kinsey, 232 F.2d 458, 465-66 (6th Cir. 1956)

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