

SUPREME COURT OF COLORADO

In re the People of the State of Colorado v. Johnny Lee

18 P.3d 192 (Colo. 2001) · No. No. 00SA258 · Decided February 20, 2001

SUMMARY

The Colorado Supreme Court reviewed, under C.A.R. 21, a district court order excluding DNA evidence as a sanction for an alleged criminal discovery violation. The court held that exclusion of the DNA evidence was an abuse of discretion because the record did not show willful misconduct or prejudice that could not be cured by a continuance. The court vacated the order and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Coats
JURISDICTION	Colorado
DECIDED	February 20, 2001
DOCKET	No. 00SA258
DISPOSITION	vacated
PROCEDURAL POSTURE	The People sought relief under Colorado Appellate Rule 21 from an interlocutory district-court order excluding DNA evidence as a sanction for an alleged criminal-discovery violation.
STANDARD OF REVIEW	The Supreme Court reviews an original proceeding under C.A.R. 21 for an abuse of discretion where no other remedy is adequate. Discovery sanctions are reviewed deferentially and will not be disturbed unless manifestly arbitrary, unreasonable, or unfair; however, the trial court's discretion in selecting a sanction is not unlimited.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado, decided en banc.
PARTIES	The People of the State of Colorado v. Johnny Lee

TOPICS

discovery criminal

criminal procedure

appellate procedure

remedies

evidence

PRACTICE AREAS

criminal procedure

criminal evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21 to review an interlocutory discovery-sanction order excluding DNA evidence.
2. Whether the district court abused its discretion by excluding DNA evidence as a sanction for disclosure of the statistical-analysis component twenty-six days before trial rather than thirty days before trial.
3. Whether exclusion was an appropriate discovery sanction absent willful prosecutorial misconduct, a pattern of neglect, or prejudice that could not be cured by a continuance.

HOLDINGS

1. Original-jurisdiction review was appropriate because exclusion of the DNA evidence could substantially impair the prosecution and the ruling could not be adequately remedied through an ordinary appeal after an acquittal.
2. When the interpretation of a scientific test or comparison requires specialized expert knowledge, disclosure of the expert's calculations or report interpreting the results is part of the offering party's discovery obligation.
3. The district court abused its discretion by excluding the DNA evidence because the record did not show willful misconduct, a pattern of neglect, or prejudice that could not be cured by a less severe sanction such as a continuance.
4. When a discovery violation occurs, the trial court should impose the least severe sanction that ensures compliance and should use exclusion only when a less severe remedy would be inadequate to ensure fairness.

KEY QUOTATIONS

"Where a sanction is deemed necessary, therefore, the trial court should impose 'the least severe sanction that will ensure that there is full compliance with the court's discovery orders.'" (18 P.3d at 197)

"If at all possible, a trial court should avoid excluding evidence as a means of remedying a discovery violation because the attendant windfall to the party against whom such evidence would have been offered defeats, rather than furthers, the objectives of discovery." (18 P.3d at 197)

"Under the circumstances of this case, the trial court's exclusion of DNA evidence intended to link the defendant to a pubic hair recovered from the scene of the alleged sexual assaults was therefore an abuse of discretion." (18 P.3d at 198)

FACTUAL BACKGROUND

Lee was charged in connection with the abduction and repeated sexual assaults of a woman by six assailants. Police recovered semen and pubic hairs from the alleged crime scene, and one pubic hair was microscopically consistent with Lee and later produced a DNA profile matching him. The prosecution disclosed the statistical

analysis for the hair DNA evidence twenty-six days before the scheduled trial, four days after the thirty-day discovery deadline, and the district court excluded the evidence without finding willful misconduct or determining that a continuance would be inadequate to cure any prejudice.

PROCEDURAL HISTORY

Lee was charged with kidnapping, sexual assault, conspiracy, and a crime of violence. After the district court excluded DNA evidence linking Lee to a pubic hair recovered from the crime scene because the prosecution disclosed the statistical analysis twenty-six rather than thirty days before trial, the People filed a C.A.R. 21 petition. The Colorado Supreme Court issued a rule to show cause, vacated the exclusion order, and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The district court's order excluding the DNA evidence was vacated, and the case was remanded for further proceedings consistent with the opinion.

CASES CITED

- Fishback v. People, 851 P.2d 884, 888 (Colo. 1993)
- Fishback v. People, 851 P.2d 884, 893 & n.18 (Colo. 1993)
- Frye v. United States, 293 F. 1013 (D.C. Cir. 1923)
- People v. District Court, 869 P.2d 1281, 1285 (Colo. 1994)
- People v. District Court, 664 P.2d 247, 251-252 (Colo. 1983)
- People v. District Court, 894 P.2d 739, 742 (Colo. 1995)
- People v. District Court, 898 P.2d 1058, 1060 (Colo. 1995)
- People v. District Court, 793 P.2d 163, 167-169 (Colo. 1990)
- Chambers v. People, 682 P.2d 1173, 1180 (Colo. 1984)
- People v. Castro, 854 P.2d 1262, 1265 (Colo. 1993)
- People v. District Court, 808 P.2d 831, 836-838 (Colo. 1991)
- People v. Cobb, 962 P.2d 944, 949 (Colo. 1998)
- People v. Dunlap, 975 P.2d 723, 754-755 (Colo. 1999)
- People v. Thurman, 787 P.2d 646, 655 (Colo. 1990)