

SUPREME JUDICIAL COURT OF MAINE

In re Sarah C., 2004 ME 152

864 A.2d 162 (Me. 2004) · Decided December 17, 2004

SUMMARY

The Maine Supreme Judicial Court reviewed a jeopardy order involving a father accused of sexually abusing his daughter's friend. The court held that portions of an expert psychologist's statistical testimony concerning the likelihood of abuse of the father's daughter lacked sufficient reliability and should not have been admitted. It nevertheless affirmed the judgment because the error was harmless and the jeopardy determination was supported by other evidence.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Clifford, J.; Saufley, C.J.; Rudman, J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	December 17, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a jeopardy order entered after a contested child-protection hearing in the District Court.
STANDARD OF REVIEW	Admission of expert testimony is reviewed for clear error and abuse of discretion. Harmlessness is assessed under whether it is highly probable that the error did not affect the fact-finder's judgment.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Judicial Court of Maine.
PARTIES	Father of Sarah C. v. Department of Health and Human Services

TOPICS

- expert testimony
- evidence
- family law procedure
- harmless error
- appellate procedure

PRACTICE AREAS

- family law
- evidence
- child protection

QUESTIONS PRESENTED

1. Whether the trial court improperly admitted expert testimony quantifying the likelihood that the father would sexually abuse Sarah based on his sexual abuse of Sarah's friend.
2. Whether any error in admitting the expert's statistical testimony required reversal of the jeopardy order.

HOLDINGS

1. Expert testimony must be relevant, assist the fact-finder in understanding the evidence or determining a fact in issue, and satisfy a threshold level of reliability. The expert's quantified estimate that the father had a fifteen-to-twenty-seven-percent likelihood of sexually abusing Sarah was insufficiently reliable because it was not based on research corresponding to the facts of the case, was not tailored to the father's psychological profile, had not been peer reviewed, and had not been tested.
2. The erroneous admission of the expert's statistical testimony was harmless because it was highly probable that the testimony did not affect the court's judgment.

KEY QUOTATIONS

“Thus, Dr. Hecker's testimony essentially amounted to an unsupported assertion that, in his view, there is a quantifiable likelihood that sexual offenders will reoffend against their own children.” (165)

“An error is harmless if it is highly probable that the error did not affect the fact[-]finder's judgment.” (166)

FACTUAL BACKGROUND

The Department became involved with Sarah's family after reports that her father had sexually abused one of Sarah's friends, a young girl who spent considerable time with Sarah and the family. At the jeopardy hearing, there was no evidence that the father had sexually assaulted Sarah, but the court found by a preponderance of the evidence that he had sexually abused the friend. The father had treated the friend as his own daughter, abused her when Sarah was nearby, and romanticized the relationship in a manner consistent with an adult relationship. An expert testified that there was a fifteen-to-twenty-seven-percent statistical risk that the father would sexually abuse Sarah, but the expert's analysis relied on extrapolations from studies that did not correspond to the precise circumstances of the case.

PROCEDURAL HISTORY

The Department of Health and Human Services became involved after allegations that the father sexually abused one of Sarah's friends. Following a contested jeopardy hearing, the District Court found that the father had sexually abused the friend, had not sexually abused Sarah, but nevertheless placed Sarah in jeopardy. The court admitted expert testimony concerning the statistical likelihood that the father would sexually abuse Sarah. The Supreme Judicial Court of Maine held that portions of that testimony were improperly admitted but affirmed because the error was harmless.

DISPOSITION

affirmed

CASES CITED

- State v. Fleming, 1997 ME 158, ¶ 14, 698 A.2d 503, 507
- State v. Williams, 388 A.2d 500, 503-04 (Me. 1978)
- State v. Irving, 2003 ME 31, ¶ 12, 818 A.2d 204, 208
- State v. Boutilier, 426 A.2d 876, 879 (Me. 1981)
- State v. Tellier, 526 A.2d 941 (Me. 1987)
- State v. Kalex, 2002 ME 26, ¶ 22, 789 A.2d 1286, 1292

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