

SUPREME COURT OF THE STATE OF MONTANA

State of Montana v. Charles Michael Byrne

Byrne, 2021 MT 238 (Supreme Court of the State of Montana 2021) · No. DA 19-0420 · Decided September 21, 2021

SUMMARY

The Montana Supreme Court held that the defendant's motion in limine preserved his challenge to testimony and argument bolstering the alleged victim's credibility. The Court concluded that the State improperly elicited credibility-vouching testimony from witnesses and improperly characterized the victim as a reliable witness during closing argument. It reversed the convictions for three counts of felony sexual intercourse without consent and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Laurie McKinnon; Laurie McKinnon; Ingrid Gustafson; Dirk M. Sandefur; James Jeremiah Shea; Beth Baker
JURISDICTION	Montana
DECIDED	September 21, 2021
DOCKET	DA 19-0420
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from convictions for three counts of felony sexual intercourse without consent involving a victim twelve years old or younger.
STANDARD OF REVIEW	The court applied a two-step analysis for prosecutorial comments: whether the comments were improper and, if so, whether they prejudiced the defendant's right to a fair trial. The majority held that the motion in limine preserved the issue; the dissent would have applied plain-error review.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Charles Michael Byrne v. State of Montana

TOPICS

prosecutorial misconduct

evidence

criminal procedure

sixth amendment

preservation of error

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Byrne's motion in limine preserved his challenge to the State's elicitation of testimony vouching for M.G.'s credibility.
2. Whether the State improperly elicited expert and lay testimony bolstering M.G.'s credibility.
3. Whether the prosecutor improperly expressed a personal opinion about M.G.'s reliability during closing argument.
4. Whether the cumulative effect of the credibility-vouching testimony and argument deprived Byrne of a fair trial.

HOLDINGS

1. A motion in limine preserved Byrne's challenge because the District Court was directly faced with the issue, the State stipulated to the motion, and the court definitively granted the stipulated motions.
2. A prosecutor may not elicit testimony from witnesses, including experts, that directly or indirectly vouches for the credibility of an alleged child sexual-abuse victim, absent the narrow exception for properly qualified expert testimony involving a very young child who testifies and exhibits contradictory behavior.
3. A prosecutor may not personally tell the jury that a witness is reliable or otherwise express an opinion that the witness is truthful.
4. The cumulative effect of repeated credibility-vouching testimony and the prosecutor's personal credibility comment deprived Byrne of his constitutional right to a fair trial and required reversal.

KEY QUOTATIONS

“This Court has been unequivocal in its admonitions to prosecutors to stop improper comment and we have made it clear that we will reverse a case where counsel invades the province of the jury” (¶ 24)

“We conclude, based on the nature of the evidence, the credibility-boosting testimony of M.G. from several witnesses, and the prosecutor telling the jury M.G. was a “reliable witness” who had no incentive to lie, that Byrne was denied his constitutional right to a fair trial.” (¶ 35)

FACTUAL BACKGROUND

The State alleged that Byrne sexually abused M.G. on three occasions when she was under twelve years old. M.G. disclosed the alleged abuse years later, after moving between households and experiencing bed-wetting and anxiety-related symptoms. The prosecution's case depended principally on M.G.'s testimony; there was no physical evidence, eyewitness testimony to the assaults, or inculpatory statement by Byrne. During trial, the State elicited testimony from several professionals that M.G. showed no signs of dishonesty, manipulation, or coaching, and an expert testified that malicious false reports and misidentification were rare.

PROCEDURAL HISTORY

The State charged Byrne in Montana district court with three felony counts arising from alleged conduct between 2009 and 2011. A jury convicted him on all three counts, and the District Court imposed 100-year sentences on each count with fifty-year parole restrictions. Byrne appealed, arguing that testimony and prosecutorial argument improperly vouched for the victim's credibility and deprived him of a fair trial. The Montana Supreme Court reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse Byrne's convictions and remand for a new trial.

CASES CITED

- State v. Sanchez, 2008 MT 27, ¶ 51, 341 Mont. 240, 177 P.3d 444
- State v. Hayden, 2008 MT 274, ¶¶ 26-27, 31-32, 345 Mont. 252, 190 P.3d 1091
- State v. Scheffelman, 250 Mont. 334, 342, 820 P.2d 1293, 1298 (1991)
- State v. Geyman, 224 Mont. 194, 729 P.2d 475 (1986)
- State v. Gladue, 1999 MT 1, ¶¶ 12, 19, 27, 293 Mont. 1, 972 P.2d 827
- State v. Wing, 2008 MT 218, ¶ 33, 344 Mont. 243, 188 P.3d 999
- State v. Favel, 2015 MT 336, ¶¶ 17, 19, 21, 381 Mont. 472, 362 P.3d 1126
- Anderson v. BNSF Ry., 2015 MT 240, ¶¶ 77-78, 380 Mont. 319, 354 P.3d 1248
- Peterson-Tuell v. First Student Transp., LLC, 2014 MT 307, 377 Mont. 113, 339 P.3d 16
- State v. Crider, 2014 MT 139, ¶ 19, 375 Mont. 187, 328 P.3d 612
- State v. Vukasin, 2003 MT 230, 317 Mont. 204, 75 P.3d 1284
- Hulse v. Department of Justice, 1998 MT 108, ¶ 46, 289 Mont. 1, 961 P.2d 75
- State v. Partin, 287 Mont. 12, 951 P.2d 1002 (1997)
- State v. St. Germain, 2007 MT 28, ¶ 27, 336 Mont. 17, 153 P.3d 591
- State v. Aker, 2013 MT 253, ¶¶ 26, 28, 371 Mont. 491, 310 P.3d 506
- State v. Lacey, 2012 MT 52, ¶ 17, 364 Mont. 291, 272 P.3d 1288
- State v. McDonald, 2013 MT 97, ¶ 14, 369 Mont. 483, 299 P.3d 799
- State v. Thorp, 2010 MT 92, ¶ 26, 356 Mont. 150, 231 P.3d 1096
- State v. Racz, 2007 MT 244, ¶ 36, 339 Mont. 218, 168 P.3d 685
- State v. Stringer, 271 Mont. 367, 377, 380-81, 897 P.2d 1063, 1069, 1071-72 (1995)
- State v. Grimshaw, 2020 MT 201, ¶¶ 21-25, 32-33, 401 Mont. 27, 469 P.3d 702
- Rogers v. State, 2011 MT 105, ¶ 26, 360 Mont. 334, 253 P.3d 889
- State v. Sinz, 2021 MT 163, 404 Mont. 498, 490 P.3d 97

- State v. Lawrence, 2016 MT 346, ¶ 18, 386 Mont. 86, 385 P.3d 968

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