

MICHIGAN SUPREME COURT

People of the State of Michigan v. Robert Lance Propp

People of the State of Michigan v. Propp · No. 160551 · Decided December 6, 2021

SUMMARY

The Michigan Supreme Court held that accident is not an affirmative defense to first-degree premeditated murder because the prosecution bears the burden of proving intent to kill. The Court vacated the Court of Appeals’ analysis of the denial of expert funding and remanded for application of the due-process standard governing requests for expert assistance. The Court also held that rules of evidence, including the hearsay rule, may be considered when determining the admissibility of domestic-violence other-acts evidence under MCL 768.27b.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Richard H. Bernstein, J.; Bridget M. McCormack, C.J.; Brian K. Zahra, J.; David F. Viviano, J.; Elizabeth T. Clement, J.; Megan K. Cavanagh, J.; Elizabeth M. Welch, J.
JURISDICTION	Michigan
DECIDED	December 6, 2021
DOCKET	160551
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his first-degree premeditated-murder conviction and the Michigan Supreme Court granted leave to review the Court of Appeals' treatment of his request for expert funding and the admissibility of domestic-violence other-acts evidence.
STANDARD OF REVIEW	Due-process issues and statutory-interpretation questions are reviewed de novo. Evidentiary decisions are reviewed for abuse of discretion, although whether a rule or statute precludes admission is reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Robert Lance Propp v. People of the State of Michigan

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expert testimony

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QUESTIONS PRESENTED

1. Whether the defense of accident to first-degree premeditated murder is an affirmative defense requiring a defendant seeking government-funded expert assistance to show a substantial basis for the defense.
2. Whether an indigent criminal defendant's request for government-funded expert assistance is governed by the due-process standard requiring a reasonable probability that the expert would assist the defense and that denial would result in a fundamentally unfair trial.
3. Whether MCL 768.27b permits consideration of rules of evidence other than MRE 403, including MRE 802's hearsay rule, when determining the admissibility of domestic-violence other-acts evidence.

HOLDINGS

1. Accident is not an affirmative defense to first-degree premeditated murder because the prosecution bears the burden of proving intent to kill beyond a reasonable doubt, and a defendant asserting accident does not bear the burden of negating that element.
2. Under *People v. Kennedy* and the due-process analysis of *Ake v. Oklahoma*, an indigent criminal defendant seeking appointment of an expert at government expense must show a reasonable probability both that the expert would assist the defense and that denial of expert assistance would result in a fundamentally unfair trial. The Court of Appeals erred by applying the additional substantial-basis standard for affirmative defenses to defendant's accident theory.
3. Rules of evidence not specifically mentioned in MCL 768.27b may be considered when determining whether domestic-violence other-acts evidence is admissible under that statute. Accordingly, MRE 802's hearsay prohibition applies, and the trial court erred by failing to consider it.

KEY QUOTATIONS

“An affirmative defense admits the crime but seeks to excuse or justify its commission. It does not negate specific elements of the crime.” (at 4)

“The defense of accident was not an affirmative defense because defendant did not bear the burden of negating intent.” (at 5)

“It is thus apparent that rules of evidence not specifically mentioned in MCL 768.27b may nonetheless be considered when determining whether evidence is admissible.” (at 8)

“Accordingly, we conclude that the rules of evidence apply to evidence sought to be admitted under MCL 768.27b.” (at 9)

FACTUAL BACKGROUND

Emergency responders found Melissa Thornton, defendant's ex-girlfriend and the mother of his child, dead in her bed after defendant had spent the night with her. The autopsy attributed her death to neck compression, and defendant gave police several conflicting accounts of the preceding hours. Defendant sought public funding for an expert on erotic asphyxiation to support his theory that the death was accidental. The trial court also admitted evidence of defendant's prior domestic violence, including statements Thornton made to friends and family and testimony from defendant's ex-wife.

PROCEDURAL HISTORY

The Saginaw Circuit Court denied defendant's request for funds to retain an erotic-asphyxiation expert and admitted the prosecution's other-acts domestic-violence evidence. Following a jury conviction for first-degree premeditated murder and a mandatory sentence of life without parole, the Michigan Court of Appeals affirmed. The Michigan Supreme Court vacated the Court of Appeals' due-process analysis, reversed its other-acts-evidence holding, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals was directed to reconsider defendant's request for expert assistance under the Kennedy standard, determining whether there was a reasonable probability that the expert would have been helpful and whether denial of expert assistance rendered the trial fundamentally unfair. It was also directed to determine whether the rules of evidence otherwise barred admission of the challenged prior acts. Part II of the Court of Appeals' judgment was vacated, Part IV was reversed, and the case was remanded without retention of jurisdiction.

CASES CITED

- People v. Johnson, 427 Mich. 98, 107; 398 N.W.2d 219 (1986)
- People v. Kennedy, 502 Mich. 206, 211-212, 219-220, 225, 227; 917 N.W.2d 355 (2018)
- Ake v. Oklahoma, 470 U.S. 68; 105 S. Ct. 1087; 84 L. Ed. 2d 53 (1985)
- Moore v. Kemp, 809 F.2d 702, 712 (11th Cir. 1987)
- People v. Dupree, 486 Mich. 693, 704 n. 11; 788 N.W.2d 399 (2010)
- People v. Dykhouse, 418 Mich. 488, 495; 345 N.W.2d 150 (1984)
- People v. Oros, 502 Mich. 229, 240; 917 N.W.2d 559 (2018)
- People v. Smith, 498 Mich. 466, 475; 870 N.W.2d 299 (2015)
- People v. Mardlin, 487 Mich. 609, 614; 790 N.W.2d 607 (2010)
- People v. Lukity, 460 Mich. 484, 488; 596 N.W.2d 607 (1999)
- People v. Mazur, 497 Mich. 302, 308; 872 N.W.2d 201 (2015)
- People v. Rea, 500 Mich. 422, 427-428; 902 N.W.2d 362 (2017)
- People v. Crawford, 458 Mich. 376, 383; 582 N.W.2d 785 (1998)

- People v. Mack, 493 Mich. 1, 2; 825 N.W.2d 541 (2012)
- People v. Watkins, 491 Mich. 450, 456, 466, 481-486; 818 N.W.2d 296 (2012)
- McDougall v. Schanz, 461 Mich. 15, 24; 597 N.W.2d 148 (1999)
- People v. Dobben, 440 Mich. 679, 697 n. 22; 488 N.W.2d 726 (1992)
- People v. Propp, 330 Mich. App. 151; 946 N.W.2d 786 (2019)
- People v. Propp, 506 Mich. 939 (2020)

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