

SUPREME COURT OF WISCONSIN

State v. Harris

Harris, 272 Wis. 2d 80 (Wis. 2004) · No. 02-2433-CR · Decided June 8, 2004

SUMMARY

The Supreme Court of Wisconsin held that due process does not require disclosure of material impeachment evidence before a defendant enters a plea bargain, under *United States v. Ruiz*. It nevertheless held that the State violated Wisconsin's reciprocal discovery statute by failing to disclose evidence that the alleged victim had reported a sexual assault by her grandfather. Because the nondisclosure affected Harris's decision to plead guilty, the court affirmed the withdrawal of his guilty plea as necessary to avoid a manifest injustice.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Jon P. Wilcox
JURISDICTION	Wisconsin
DECIDED	June 8, 2004
DOCKET	02-2433-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the Wisconsin Court of Appeals' decision affirming a circuit court order allowing Kevin Harris to withdraw his guilty plea to first-degree sexual assault of a child based on the State's failure to disclose evidence concerning the alleged victim's prior sexual-assault allegation against her grandfather.
STANDARD OF REVIEW	The interpretation and application of Wis. Stat. § 971.23 to the facts presented a question of law reviewed independently. Historical facts underlying a constitutional claim were reviewed under the clearly erroneous standard, while ultimate constitutional facts were reviewed independently.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Wisconsin v. Kevin Harris

TOPICS

criminal procedure

plea bargaining

discovery criminal

due process

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether due process required the State to disclose material exculpatory impeachment information before Harris entered into a plea bargain.
2. Whether the State violated Wis. Stat. § 971.23(1)(h) by failing to disclose the alleged victim's prior sexual-assault allegation as exculpatory evidence.
3. Whether the statutory nondisclosure entitled Harris to withdraw his guilty plea to avoid a manifest injustice.

HOLDINGS

1. Due process does not require the disclosure of material exculpatory impeachment information before a criminal defendant enters into a plea bargain.
2. Under Wis. Stat. § 971.23(1)(h), the State was required to disclose the alleged victim's prior allegation against her grandfather because it was favorable exculpatory impeachment evidence whose nondisclosure undermined confidence in the judicial proceeding.
3. For purposes of Wis. Stat. § 971.23(1), evidence must be disclosed within sufficient time before trial for the defendant to make effective use of it.
4. A defendant may withdraw a guilty plea to avoid manifest injustice when a statutory discovery violation deprives the defendant of material exculpatory impeachment evidence and induces the guilty plea.

KEY QUOTATIONS

“We therefore hold, based on the United States Supreme Court decision in Ruiz, that due process does not require the disclosure of material exculpatory impeachment information before a defendant enters into a plea bargain.” (105)

“We hold that in order for evidence to be disclosed “within a reasonable time before trial” for purposes of § 971.23, it must be disclosed within a sufficient time for its effective use.” (114)

“As Harris entered his plea bargain within two weeks prior to the date his trial was scheduled to commence, the State should have disclosed the suppressed evidence by at least this point in the proceedings in order for Harris to be able to effectively use it.” (117)

FACTUAL BACKGROUND

The State charged Harris with first-degree sexual assault of a child and bail jumping. Before trial, Harris made a discovery demand for exculpatory evidence, and the State disclosed that it intended to use expert testimony concerning behaviors common among child sexual-assault victims. Approximately two weeks before trial, Harris

pleaded guilty without knowing that the alleged victim had previously reported that her grandfather sexually assaulted her. The undisclosed allegation could have been used to challenge the victim's credibility, provide an alternative source for her sexual knowledge, and challenge the State's anticipated expert testimony.

PROCEDURAL HISTORY

Harris pleaded guilty to first-degree sexual assault of a child as a repeater after the State agreed to dismiss and read in a bail-jumping count and other misdemeanor matters. After sentencing, Harris learned that the State had not disclosed the alleged victim's prior allegation that her grandfather had sexually assaulted her. The circuit court granted Harris's postconviction motion to withdraw his plea, and the court of appeals affirmed. The Wisconsin Supreme Court affirmed the court of appeals, holding that the nondisclosure violated Wisconsin's discovery statute and that plea withdrawal was necessary to avoid manifest injustice.

DISPOSITION

affirmed

CASES CITED

- United States v. Ruiz, 536 U.S. 622 (2002)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Strickler v. Greene, 527 U.S. 263 (1999)
- United States v. Bagley, 473 U.S. 667 (1985)
- Giglio v. United States, 405 U.S. 150 (1972)
- Kyles v. Whitley, 514 U.S. 419 (1995)
- State v. Pulizzano, 155 Wis. 2d 633, 456 N.W.2d 325 (1990)
- State v. DelReal, 225 Wis. 2d 565, 593 N.W.2d 461 (Ct. App. 1999)
- Hatcher v. State, 83 Wis. 2d 559, 266 N.W.2d 320 (1978)
- State v. Thomas, 2000 WI 13, 232 Wis. 2d 714, 605 N.W.2d 836
- State v. Sturgeon, 231 Wis. 2d 487, 605 N.W.2d 589 (Ct. App. 1999)
- State ex rel. Lynch v. Circuit Court for Dane County, 82 Wis. 2d 454, 262 N.W.2d 773 (1978)
- State v. DeLao, 2002 WI 49, 252 Wis. 2d 289, 643 N.W.2d 480
- State v. Jensen, 147 Wis. 2d 240, 432 N.W.2d 913 (1988)
- State v. Dunlap, 2002 WI 19, 250 Wis. 2d 466, 640 N.W.2d 112
- State v. Hezzie R., 219 Wis. 2d 848, 580 N.W.2d 660 (1998)
- Reginald D. v. State, 193 Wis. 2d 299, 533 N.W.2d 181 (1995)
- United States v. Coppa, 267 F.3d 132 (2d Cir. 2001)
- United States v. O'Hara, 301 F.3d 563 (7th Cir. 2002)
- United States v. Grintjes, 237 F.3d 876 (7th Cir. 2001)
- State v. Gary M.B., 2004 WI 33, 270 Wis. 2d 62, 676 N.W.2d 475

