

NEW YORK COURT OF APPEALS

People v. Kelley

19 N.Y.3d 887 (2012) · Decided June 12, 2012

SUMMARY

The New York Court of Appeals held that introducing DNA evidence from a towel late in the prosecution's case violated the defendant's right to a fair trial because the defense had already relied on the absence of corroborating DNA evidence. The Court ordered a new trial on the convictions for first-degree course of sexual conduct against a child and endangering the welfare of a child, while finding the error harmless as to the criminal contempt convictions. The order of the Appellate Division was modified and, as modified, affirmed.

CASE DETAILS

COURT	New York Court of Appeals
JURISDICTION	New York
DECIDED	June 12, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from an Appellate Division order affirming convictions for course of sexual conduct against a child in the first degree, endangering the welfare of a child, and criminal contempt. The New York Court of Appeals granted leave to appeal.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	Defendant v. People of the State of New York

TOPICS

criminal procedure evidence due process

PRACTICE AREAS

criminal procedure evidence constitutional law

QUESTIONS PRESENTED

1. Whether admitting DNA evidence from the towel, discovered and disclosed after defendant had testified and after the defense had relied on the absence of corroborating DNA evidence, deprived defendant of a fair trial.

2. Whether the error required relief on the criminal contempt convictions notwithstanding the trial court's error.

HOLDINGS

1. When the prosecution discovers and seeks to introduce materially significant scientific evidence so late in trial that the defense has already presented its theory and the defendant has testified, admission of the evidence may violate the defendant's right to a fair trial. On these facts, the towel DNA evidence should have been precluded or the court should have declared a mistrial.
2. The error was harmless as to the criminal contempt charges because defendant admitted his guilt regarding those crimes.

KEY QUOTATIONS

“On these facts, the introduction of the scientific evidence pertaining to the genetic testing of the semen on the towel violated defendant’s right to a fair trial.” (889-890)

“The trial court therefore should have precluded the submission of this evidence or declared a mistrial” (890)

“But the error was harmless as to the criminal contempt charges because defendant admitted his guilt regarding those crimes.” (890)

FACTUAL BACKGROUND

Police received underwear, a bed sheet, and a towel belonging to the victim, defendant's daughter, during the investigation of alleged sexual offenses. Testing of the underwear revealed male DNA that did not belong to defendant, but the towel was not tested until late in the trial, after defendant had testified and the defense had emphasized the absence of DNA evidence implicating him. The towel testing revealed defendant's semen and female DNA, but not the daughter's DNA. The trial court admitted the results, and the jury convicted defendant of course of sexual conduct against a child in the first degree, endangering the welfare of a child, and criminal contempt.

PROCEDURAL HISTORY

Defendant was convicted after a jury trial. During the trial, the prosecution disclosed previously untested towel DNA evidence after defendant had testified and after the defense had relied on the absence of DNA evidence as a central defense theory. The trial court admitted the evidence and permitted defendant to retake the stand if he wished. The Appellate Division affirmed, and a Judge of the Court of Appeals granted leave to appeal. The Court of Appeals modified the order, vacated the convictions for course of sexual conduct against a child in the first degree and endangering the welfare of a child, and ordered a new trial on those counts, while affirming the criminal contempt convictions.

DISPOSITION

other

REMAND INSTRUCTIONS

Vacate the convictions for course of sexual conduct against a child in the first degree and endangering the welfare of a child, and order a new trial on those counts. Leave the criminal contempt convictions affirmed.

CASES CITED

- People v. Goins, 73 N.Y.2d 989, 991 (1989)
- People v. Kelley, 82 A.D.3d 463 (1st Dep't 2011)
- People v. Kelley, 17 N.Y.3d 807 (2011)

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