

SUPREME COURT OF ARKANSAS

Seely v. State

373 Ark. 141 (2008) (Ark. 2008) · No. No. CR 07-1063 · Decided April 10, 2008

SUMMARY

The Supreme Court of Arkansas reviewed John Leelyn Seely’s rape conviction and addressed whether hearsay statements by his three-year-old daughter, relayed through her mother and a social worker, violated the Sixth Amendment Confrontation Clause. The court applied Crawford and Davis to distinguish testimonial from nontestimonial statements, holding that the child’s statements to her mother were nontestimonial and examining the primary purpose of the social worker’s interview. The court affirmed the conviction.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown
JURISDICTION	Arkansas
DECIDED	April 10, 2008
DOCKET	No. CR 07-1063
DISPOSITION	reversed
PROCEDURAL POSTURE	Seely appealed his rape conviction to the Arkansas Court of Appeals. The court of appeals reversed and remanded for a new trial, concluding that the circuit court improperly admitted a social worker's testimony about the child's hearsay statements. The Supreme Court of Arkansas granted the State's petition for review.
STANDARD OF REVIEW	De novo review applies to the constitutional-interpretation question presented.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	John Leelyn Seely v. State of Arkansas

TOPICS

- hearsay
- sixth amendment
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether J.B.'s statements to her mother were testimonial hearsay subject to the Sixth Amendment Confrontation Clause.
2. Whether J.B.'s statements to social worker Trish Smith were testimonial hearsay subject to the Sixth Amendment Confrontation Clause.

HOLDINGS

1. J.B.'s statements to her mother were nontestimonial and therefore did not implicate the Confrontation Clause.
2. J.B.'s statements to Smith were nontestimonial because the objective primary purpose of Smith's interview was medical treatment rather than gathering evidence for a later criminal prosecution.
3. The testimonial character of a hearsay statement must be determined objectively from the circumstances and the primary purposes of both the declarant and, when relevant, the person asking the questions. Statements to government officials are presumptively testimonial but may be nontestimonial when their primary purpose is obtaining assistance in an emergency; statements to nongovernmental persons are presumptively nontestimonial but may be testimonial when their primary purpose is creating evidence for court.

KEY QUOTATIONS

"We conclude that in light of Crawford and Davis, both the primary purpose of the person making the statement and the primary purpose of the person asking the questions may be relevant to a confrontation-clause analysis." (282 S.W.3d at 787)

"Where a statement is made to a government official, it is presumptively testimonial, but the statement can be shown to be nontestimonial where the primary purpose of the statement is to obtain assistance in an emergency." (282 S.W.3d at 787-788)

"Where a statement is made to a nonofficial, it is presumptively nontestimonial, but can be shown to be testimonial if the primary purpose of the statement is to create evidence for use in court." (282 S.W.3d at 788)

"We hold that J.B.'s statements to Trish Smith were nontestimonial based on the fact that, using an objective standard, the primary purpose of the interview was medical treatment." (282 S.W.3d at 790)

FACTUAL BACKGROUND

J.B., Seely's three-year-old daughter, complained to her mother that her genital area hurt and said that her father had put his fingers in her vagina. At Arkansas Children's Hospital, J.B. made substantially similar statements to social worker Trish Smith during an interview conducted before a medical examination. J.B. was found incompetent to testify, and the circuit court admitted the mother's and social worker's testimony under Arkansas's child-hearsay rule. A pediatrician testified that J.B. had vaginal injuries consistent with penetration by a finger or other foreign object, although the injuries could have had another cause.

PROCEDURAL HISTORY

Seely was convicted by an Arkansas circuit court of raping his three-year-old daughter and was sentenced as a habitual offender to twenty years' imprisonment. The court of appeals reversed and remanded based on the admission of testimony from social worker Trish Smith. On the State's petition for review, the Supreme Court of Arkansas treated the matter as originally filed in that court, affirmed the conviction, and reversed the court of appeals on the Confrontation Clause issue.

DISPOSITION

reversed

CASES CITED

- Van Wagner v. Wal-Mart Stores, Inc., 368 Ark. 606, 249 S.W.3d 123 (2007)
- Navarro v. State, 371 Ark. 179, 264 S.W.3d 530 (2008)
- Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)
- Ohio v. Roberts, 448 U.S. 56, 100 S. Ct. 2531, 65 L. Ed. 2d 597 (1980)
- Idaho v. Wright, 497 U.S. 805, 110 S. Ct. 3139, 111 L. Ed. 2d 638 (1990)
- Maryland v. Craig, 497 U.S. 836, 110 S. Ct. 3157, 111 L. Ed. 2d 666 (1990)
- Davis v. Washington, 547 U.S. 813, 126 S. Ct. 2266, 165 L. Ed. 2d 224 (2006)
- State v. Contreras, 979 So. 2d 896 (Fla. 2008)
- State v. Siler, 116 Ohio St. 3d 39, 876 N.E.2d 534 (2007)
- State v. Spencer, 339 Mont. 227, 169 P.3d 384 (2007)
- State v. Henderson, 284 Kan. 267, 160 P.3d 776 (2007)
- Bishop v. State, 982 So. 2d 371 (Miss. 2008)
- State v. Ladner, 373 S.C. 103, 644 S.E.2d 684 (2007)
- Purvis v. State, 829 N.E.2d 572 (Ind. Ct. App. 2005)
- United States v. Peneaux, 432 F.3d 882 (8th Cir. 2005)
- State v. Justus, 205 S.W.3d 872 (Mo. 2006)
- State v. Hooper, 145 Idaho 139, 176 P.3d 911 (2007)
- State v. Bentley, 739 N.W.2d 296 (Iowa 2007)
- State v. Krasky, 736 N.W.2d 636 (Minn. 2007)
- Pointer v. Texas, 380 U.S. 400, 85 S. Ct. 1065, 13 L. Ed. 2d 923 (1965)