

COURT OF APPEALS OF THE STATE OF NEW YORK

People v. Yavru-Sakuk

4 N.Y.3d 814, 829 N.E.2d 1187, 797 N.Y.S.2d 19 (2005) · Decided March 29, 2005

SUMMARY

The New York Court of Appeals modified and affirmed an Appellate Term order in a criminal sexual-abuse case involving the alleged nondisclosure of portions of a victim's mother's diary. The court remitted the matter for an in camera inspection to determine whether additional relevant material existed and, if so, whether its nondisclosure materially contributed to the conviction.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Chief Judge Kaye; Judge G.B. Smith; Judge Ciparick; Judge Rosenblatt; Judge Graffeo; Judge Read; Judge R.S. Smith
JURISDICTION	New York
DECIDED	March 29, 2005
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendant appealed from an Appellate Term order affirming his conviction while rejecting his claim that the prosecution had failed to disclose the entire diary of the victim's mother. The Court of Appeals modified the order and remitted the matter for an in camera inspection of the diary.
STANDARD OF REVIEW	Review of the prosecution's nondisclosure of potentially discoverable Rosario material under CPL 240.75, including whether nondisclosure materially contributed to the trial result.
PRECEDENTIAL VALUE	Published opinion of the New York Court of Appeals
PARTIES	Bedros Yavru-Sakuk v. The People of the State of New York

TOPICS

- discovery criminal
- criminal procedure
- appellate procedure
- evidence
- standard of review

PRACTICE AREAS

- criminal procedure
- criminal discovery
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether the prosecution could rely on the victim's mother's representation that no additional portion of her diary was relevant when the prosecution had not reviewed the diary itself.
2. Whether the case should be remitted for an in camera inspection to determine whether additional diary material was relevant and, if so, whether nondisclosure materially contributed to the trial result under CPL 240.75.

HOLDINGS

1. The prosecution could not rely on that representation because it had not itself reviewed the diary; the matter therefore had to be remitted for an in camera inspection of the remaining diary entries.
2. If the trial court finds relevant diary material, it must determine whether disclosure would establish a reasonable possibility that nondisclosure materially contributed to the trial result; if so, the relevant material must be disclosed and a new trial ordered, and otherwise the conviction must be amended to reflect that nondisclosure did not materially contribute to the judgment.

KEY QUOTATIONS

“In relying on the representation of the People that no other portion of the diary was relevant, when the People themselves had not reviewed the diary, the Appellate Term erred.” (4 N.Y.3d at 815)

“We modify by remitting to the trial court for an in camera inspection as to whether any other portion of the diary is relevant” (4 N.Y.3d at 815-16)

“that there is a reasonable possibility that the non-disclosure materially contributed to the result of the trial” (4 N.Y.3d at 816)

FACTUAL BACKGROUND

Defendant, a dentist, was convicted of sexually abusing his patient. The victim's mother kept a diary, and the prosecution disclosed only portions of it, including two pages written in Turkish. The mother and other family members allegedly continued to visit defendant professionally after the charged sexual abuse, leading defendant to argue that later diary entries might be relevant. The prosecution possessed the diary but had not independently reviewed or translated the entire document.

PROCEDURAL HISTORY

Defendant was convicted of sexual abuse of his patient. On an earlier appeal, the Court of Appeals reversed the Appellate Term's determination that effective review was impossible because a telephone-call recording had been lost, and remitted for further proceedings. After the recording was found, the Appellate Term reviewed the merits and affirmed, concluding that the evidence was legally sufficient and that defendant had not shown under CPL 240.75 that the undisclosed diary material could have affected the result. The Court of Appeals held that the prosecution could not rely on the mother's representation of relevance without reviewing the diary and remitted for an in camera inspection.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter is remitted to Criminal Court for an in camera inspection of the diary to determine whether any additional portion is relevant. If relevant material is found, the court must determine whether there is a reasonable possibility that nondisclosure materially contributed to the trial result. If so, the relevant portions must be disclosed and a new trial ordered; otherwise, the judgment of conviction should be amended to reflect that nondisclosure did not materially contribute to the judgment. The Appellate Term's order was modified and, as modified, affirmed.

CASES CITED

- People v. Yavru-Sakuk, 98 N.Y.2d 56 (2002)
- People v. Adger, 75 N.Y.2d 723 (1989)