

SUPREME COURT OF NORTH DAKOTA

State v. Vetter

2019 ND 262 (N.D. 2019) · No. No. 20190054 · Decided October 29, 2019

SUMMARY

The North Dakota Supreme Court affirmed an order deferring imposition of sentence after Michelle Vetter was convicted of child abuse. The court denied her request for judicial notice of later-filed divorce-case documents, rejected her constitutional vagueness challenge to the statutory definition of bodily injury, and held that the trial evidence was sufficient to support the conviction.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jerod E. Tufte, Justice; Jerod E. Tufte; Daniel J. Crothers; Lisa Fair McEvers; Jon J. Jensen; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	October 29, 2019
DOCKET	No. 20190054
DISPOSITION	affirmed
PROCEDURAL POSTURE	Vetter appealed from an order deferring imposition of sentence entered after a jury convicted her of child abuse.
STANDARD OF REVIEW	Constitutional challenges are reviewed de novo as questions of law. For sufficiency of the evidence, the court determines whether the record contains sufficient evidence from which a jury could reasonably infer guilt, viewing the evidence in the light most favorable to the verdict; the court does not reweigh conflicting evidence or assess witness credibility.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of North Dakota.
PARTIES	Michelle Renee Vetter v. State of North Dakota

TOPICS

- criminal procedure
- void for vagueness
- judicial notice
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the Supreme Court should judicially notice filings from Vetter’s later divorce proceedings.
2. Whether N.D.C.C. § 14-09-22, incorporating the definition of bodily injury in N.D.C.C. § 12.1-01-04(4), is unconstitutionally vague because bodily injury includes physical pain.
3. Whether sufficient evidence supported Vetter’s child-abuse conviction.

HOLDINGS

1. The court denied Vetter’s request for judicial notice because the filings were entered after the district court proceedings and were subject to reasonable dispute.
2. N.D.C.C. § 14-09-22 is not unconstitutionally vague. Including physical pain within the definition of bodily injury gives reasonable persons adequate notice of prohibited conduct and provides sufficient guidance for enforcement.
3. The evidence was sufficient to support the jury’s guilty verdict for child abuse beyond a reasonable doubt.

KEY QUOTATIONS

“A law is “not unconstitutionally vague ‘if the challenged language, when measured by common understanding and practice, gives adequate warning of the conduct proscribed and marks boundaries sufficiently distinct for fair administration of the law.’”” (§ 7)

“Pain, which is a qualifying, but not necessary, circumstance of bodily impairment under N.D.C.C. § 12.1-01-04(4), is a phenomenon of common experience and understanding.” (§ 9)

FACTUAL BACKGROUND

While playing on a couch, Vetter’s eight-year-old daughter bumped Vetter in the nose, and Vetter responded by hitting the child in the side with a closed fist. The child experienced stomach pain, and Vetter’s ex-husband later observed bruising on the child’s side and reported the incident. At trial, the child testified about the strike and resulting pain, Vetter’s ex-husband testified that he saw the punch, and the State introduced photographs of the bruising.

PROCEDURAL HISTORY

The State charged Vetter under N.D.C.C. § 14-09-22 after she struck her eight-year-old daughter, causing pain and bruising. The district court denied Vetter’s motion to dismiss based on an alleged vagueness defect in the statutory definition of bodily injury. After a jury found her guilty, the district court deferred imposition of sentence. The Supreme Court of North Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Holbach, 2009 ND 37, ¶¶ 23-24, 763 N.W.2d 761
- State v. Brown, 2009 ND 150, ¶ 33, 771 N.W.2d 267
- In re Disciplinary Action Against McGuire, 2004 ND 171, ¶ 19, 685 N.W.2d 748
- Interest of D.D., 2018 ND 201, ¶ 12, 916 N.W.2d 765
- State v. Hannah, 2016 ND 11, ¶ 9, 873 N.W.2d 668
- State v. Kinsella, 2011 ND 88, ¶ 7, 796 N.W.2d 678
- State v. Wanner, 2010 ND 121, ¶ 9, 784 N.W.2d 143
- State v. Truelove, 2017 ND 283, ¶ 7, 904 N.W.2d 342