

SUPREME COURT OF SOUTH DAKOTA

State v. Verhoef

627 N.W.2d 437 (S.D. 2001) · No. Nos. 21480, 21481, 21482, 21483, 21484 · Decided May 16, 2001

SUMMARY

The Supreme Court of South Dakota affirmed Troy Martin Verhoef’s convictions on five counts of sexual contact with a child under sixteen. The court held that the trial court did not abuse its discretion in denying challenges for cause to two prospective jurors and that Verhoef failed to show prejudice because the seated jurors were impartial. The court also concluded that the evidence was sufficient to support the convictions despite discrepancies in testimony concerning dates and circumstances.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Miller, Chief Justice; Sabers, Justice; Amundson, Justice; Konenkamp, Justice; Gilbertson, Justice
JURISDICTION	South Dakota
DECIDED	May 16, 2001
DOCKET	Nos. 21480, 21481, 21482, 21483, 21484
DISPOSITION	affirmed
PROCEDURAL POSTURE	Verhoef appealed judgments of conviction on five counts of sexual contact with a child under sixteen. He challenged the denial of his motions to remove two prospective jurors for cause and the denial of his motion for judgment of acquittal.
STANDARD OF REVIEW	The denial of a challenge for cause is reviewed for abuse of discretion, and reversal requires a showing of actual, material prejudice. The denial of a motion for judgment of acquittal is reviewed by asking whether the evidence was sufficient to sustain the convictions; the evidence is viewed in the light most favorable to the verdict, and the court does not reweigh evidence or resolve credibility conflicts.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Dakota; binding precedent in South Dakota.
PARTIES	Troy Martin Verhoef v. State of South Dakota

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Verhoef's challenges for cause to prospective jurors Orton and Muellenberg.
2. Whether the trial court erred by denying Verhoef's motion for judgment of acquittal because the evidence was insufficient to support the five convictions.

HOLDINGS

1. The trial court did not abuse its discretion by refusing to remove Orton and Muellenberg for cause because both indicated that they could act fairly and impartially, and Verhoef failed to show actual, material prejudice or that any juror who decided the case was impartial.
2. The trial court properly denied judgment of acquittal on the five counts because, viewed in the light most favorable to the verdict, the evidence and reasonable inferences supported a rational theory of guilt.

KEY QUOTATIONS

"The foundation of the Court's ruling in Martinez-Salazar was that peremptory challenges to prospective jurors are not by themselves constitutional issues but rather "are one means to achieve the constitutionally required end of an impartial jury." (442)

"A guilty verdict will not be set aside if the state's evidence and all favorable inferences that can be drawn therefrom support a rational theory of guilt." (443)

FACTUAL BACKGROUND

The victim, Verhoef's eleven-year-old daughter, testified that Verhoef repeatedly made her touch his penis and assist him in ejaculating during incidents occurring from February through November 1999. The incidents generally occurred when Verhoef had been drinking or using pornography and when the victim's mother was working nights. At trial, the victim's testimony included some discrepancies concerning dates and the location of her mother's employment, and Verhoef argued that the evidence was insufficient, including as to whether the November incident was for sexual gratification.

PROCEDURAL HISTORY

Following a jury trial, Verhoef was convicted on five counts involving sexual contact with a child under sixteen. The trial court granted a judgment of acquittal on an alleged May 1999 incident but denied acquittal as to incidents alleged in February, March, April, October, and November 1999. The Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Etzkorn, 1996 SD 99, 552 N.W.2d 824
- State v. Hansen, 407 N.W.2d 217 (S.D. 1987)
- State v. Muetze, 368 N.W.2d 575 (S.D. 1985)
- State v. Darby, 1996 SD 127, 556 N.W.2d 311
- State v. Daniel, 2000 SD 18, 606 N.W.2d 532
- State v. Knoche, 515 N.W.2d 834 (S.D. 1994)
- State v. Moeller, 2000 SD 122, 616 N.W.2d 424
- United States v. Martinez-Salazar, 528 U.S. 304, 120 S.Ct. 774, 145 L.Ed.2d 792 (2000)
- State v. Garza, 1997 SD 54, 563 N.W.2d 406
- State v. Larson, 1998 SD 80, 582 N.W.2d 15
- State v. Jones, 521 N.W.2d 662 (S.D. 1994)
- State v. Blalack, 434 N.W.2d 55 (S.D. 1988)
- State v. White, 1996 SD 67, 549 N.W.2d 676
- State v. Andrews, 393 N.W.2d 76 (S.D. 1986)
- State v. Blakey, 332 N.W.2d 729 (S.D. 1983)
- State v. Karlen, 1999 SD 12, 589 N.W.2d 594