

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

United States v. Felix Brizuela, Jr.

No. No. 19-4656, United States Court of Appeals for the Fourth Circuit (June 19, 2020)

SUMMARY

The Fourth Circuit held that the district court abused its discretion by admitting testimony from patients whose treatment was not charged in the indictment, as the evidence was not "necessary to complete the story" of the charged offenses under *United States v. Kennedy* and was not admissible under Federal Rule of Evidence 404(b)(2) to show absence of mistake or accident. Because the government failed to establish harmless error, the court reversed the conviction of a physician for unlawfully distributing controlled substances under 21 U.S.C. § 841(a)(1) and remanded for a new trial. The case clarifies that in prosecutions for prescription-specific violations, uncharged patient testimony must have a clear nexus to the charged prescriptions to be intrinsic evidence, and cannot be used merely to show a pattern of improper prescribing.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Quattlebaum; Motz; Harris
JURISDICTION	Federal
DECIDED	June 19, 2020
DOCKET	No. 19-4656
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a criminal conviction after a jury trial in the United States District Court for the Northern District of West Virginia.
STANDARD OF REVIEW	Abuse of discretion for evidentiary rulings.
PRECEDENTIAL VALUE	Published
PARTIES	Felix Brizuela, Jr. v. United States of America

TOPICS

- criminal procedure
- evidence
- expert testimony
- harmless error
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by admitting testimony of patients whose treatment was not the basis for any charged offense under the 'complete the story' doctrine or Federal Rule of Evidence 404(b).

HOLDINGS

1. The district court abused its discretion in admitting the testimony of patients whose treatment was not charged because the testimony was not necessary to complete the story of the charged offenses under *United States v. Kennedy*, 32 F.3d 876 (4th Cir. 1994), and was not admissible under Rule 404(b)(2) to show absence of mistake or accident.

KEY QUOTATIONS

“For evidence of uncharged conduct to be admissible to 'complete the story' of a charged offense, the evidence must be probative of an integral component of the crime on trial or provide information without which the factfinder would have an incomplete or inaccurate view of other evidence or of the story of the crime itself.” (at 10)

“The testimony did not, for example, offer facts that were necessary to prove a specific element of a charged offense or provide information that was essential to understanding how the offense was committed.” (at 20)

“An error is harmless if 'we can say with fair assurance, after pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error.'” (at 24)

FACTUAL BACKGROUND

Dr. Felix Brizuela operated a medical practice in West Virginia and prescribed opioid painkillers. After complaints, the DEA investigated and found that Brizuela prescribed unusual drug cocktails, had pre-signed blank prescriptions, and that 63% of his patient files contained inconsistent urine drug screens. He voluntarily surrendered his Schedule II prescribing authority, stating his patients were 'pill-seekers and addicts.' A grand jury indicted him for 21 counts of unlawful distribution related to specific prescriptions for five patients. At trial, the government called four additional patients whose treatment was not charged, over Brizuela's objection.

PROCEDURAL HISTORY

Brizuela was indicted on 21 counts of unlawful distribution of controlled substances, one count of conspiracy, and 16 counts of illegal remuneration. The conspiracy charge was dismissed. After a seven-day trial, the jury convicted Brizuela on 15 distribution counts and acquitted on the remaining counts. He was sentenced to 48 months in prison and 3 years of supervised release. He appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

for a new trial in accordance with this decision

CASES CITED

- United States v. Kennedy, 32 F.3d 876 (4th Cir. 1994)
- United States v. McBride, 676 F.3d 385 (4th Cir. 2012)
- United States v. Alerre, 430 F.3d 681 (4th Cir. 2005)
- United States v. Hurwitz, 459 F.3d 463 (4th Cir. 2006)
- United States v. Tran Trong Cuong, 18 F.3d 1132 (4th Cir. 1994)
- United States v. Singh, 54 F.3d 1182 (4th Cir. 1995)
- United States v. Moore, 423 U.S. 122 (1975)
- United States v. Faulls, 821 F.3d 502 (4th Cir. 2016)
- United States v. Johnson, 617 F.3d 286 (4th Cir. 2010)
- United States v. Queen, 132 F.3d 991 (4th Cir. 1997)
- United States v. Bush, 944 F.3d 189 (4th Cir. 2019)
- United States v. Chin, 83 F.3d 83 (4th Cir. 1996)
- United States v. Sutherland, 921 F.3d 421 (4th Cir. 2019)
- United States v. Palacios, 677 F.3d 234 (4th Cir. 2012)
- United States v. Basham, 561 F.3d 302 (4th Cir. 2009)
- United States v. Siegel, 536 F.3d 306 (4th Cir. 2008)
- United States v. Stitt, 250 F.3d 878 (4th Cir. 2001)
- United States v. Denton, 944 F.3d 170 (4th Cir. 2019)
- United States v. Lipford, 203 F.3d 259 (4th Cir. 2000)
- United States v. Hall, 858 F.3d 254 (4th Cir. 2017)
- United States v. Ince, 21 F.3d 576 (4th Cir. 1994)
- United States v. Curbelo, 343 F.3d 273 (4th Cir. 2003)
- United States v. Peay, 972 F.2d 71 (4th Cir. 1992)
- United States v. Pryce, 938 F.2d 1343 (D.C. Cir. 1991)
- United States v. Giovannetti, 928 F.2d 225 (7th Cir. 1991)
- Michelson v. United States, 335 U.S. 469 (1948)
- United States v. McIver, 470 F.3d 550 (4th Cir. 2006)
- United States v. Janati, 374 F.3d 263 (4th Cir. 2004)
- United States v. Towne, 870 F.2d 880 (2d Cir. 1989)