

SUPREME COURT OF UTAH

State v. Barela

2015 UT 22 (2015) · No. 20120476 · Decided January 30, 2015

SUMMARY

The Utah Supreme Court reversed Robert Barela’s first-degree rape conviction, holding that trial counsel was ineffective for failing to object to a jury instruction that inadequately stated the mens rea requirement as to the victim’s nonconsent. The court also interpreted Utah Code section 76-5-406 as identifying circumstances that foreclose a finding of consent as a matter of public policy, rather than as an exhaustive definition of nonconsent. It further clarified the standard governing subpoenas for a victim’s medical records under Utah Rule of Criminal Procedure 14(b), without reaching the merits of Barela’s particular request.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Lee; Chief Justice Durrant; Associate Chief Justice Nehring; Justice Parrish; Justice Durham
JURISDICTION	Utah
DECIDED	January 30, 2015
DOCKET	20120476
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a first-degree rape conviction and denial of a motion for a new trial. The defendant challenged the effectiveness of trial counsel, the denial of a subpoena for the victim's medical records, and the sufficiency of the evidence of nonconsent.
STANDARD OF REVIEW	The court deferred to the jury's determination of sufficiency of the evidence and reviewed legal questions de novo. Ineffective-assistance claims were analyzed under Strickland v. Washington. The court stated that counsel's performance was deficient when counsel failed to object to the erroneous mens rea instruction and that the error was reasonably likely to have affected the verdict.
PRECEDENTIAL VALUE	Published, precedential Utah Supreme Court opinion
PARTIES	Robert Barela v. State of Utah

TOPICS

ineffective assistance

jury instructions

mens rea

statutory interpretation

evidence

PRACTICE AREAS

criminal law

criminal procedure

ineffective assistance of counsel

sexual offenses

evidence

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to object to a jury instruction that did not clearly require proof of mens rea as to the victim's nonconsent.
2. Whether trial counsel was ineffective for declining to present a mistake-of-fact defense concerning nonconsent.
3. Whether Utah Code section 76-5-406 provides an exhaustive definition of the circumstances establishing nonconsent.
4. What standard governs a post-trial request for a subpoena of a victim's medical records under Utah Rule of Criminal Procedure 14(b).

HOLDINGS

1. The jury instruction was erroneous because it implied that the mens rea requirement applied only to the act of sexual intercourse and not to the victim's nonconsent. Reasonable counsel should have objected, and the error was reasonably likely to have affected the verdict; counsel therefore provided ineffective assistance.
2. Section 76-5-406 does not establish the sum and substance of all circumstances amounting to nonconsent. It prescribes circumstances in which the legislature forecloses a jury finding of consent as a matter of public policy, while nonconsent otherwise remains a fact-intensive, context-dependent question for the jury.
3. A defendant seeking presumptively privileged medical records must show to a reasonable certainty that the records actually contain exculpatory evidence favorable to the defense, and the request must identify the records with particularity and be reasonably limited as to subject matter. The court retains substantial discretion concerning the timing of a request, including a post-trial request.

KEY QUOTATIONS

“We reverse, finding ineffective assistance in counsel’s failure to object to a jury instruction misstating the requirement of mens rea as applied to the elements of first-degree rape.” (¶ 2)

“Thus, we interpret section 406 not as establishing the sum and substance of all circumstances amounting to nonconsent, but as simply prescribing the circumstances in which the legislature forecloses a jury finding of consent as a matter of public policy.” (¶ 44)

“In order to show that he is entitled to (presumptively privileged) medical records, a defendant must show, to a “reasonable certainty,” that “the records actually contain exculpatory evidence . . . favorable to his

defense.”” (¶ 49)

FACTUAL BACKGROUND

Robert Barela, a massage therapist, had sexual intercourse with K.M., a client at a Massage Envy studio. Barela testified that K.M. initiated the sexual contact and actively participated, while K.M. testified that Barela unexpectedly massaged her inner thigh, quickly penetrated her, and that she froze without verbally or physically resisting. Medical examination found Barela's semen and physical findings consistent with K.M.'s account, although the nurse acknowledged the findings were also consistent with consensual sex. The jury was instructed that the State had to prove Barela intentionally or knowingly had intercourse and that the intercourse was without K.M.'s consent, but the instruction did not clearly require mens rea as to nonconsent.

PROCEDURAL HISTORY

A jury convicted Robert Barela of first-degree rape in the Third District Court. After retaining new counsel, Barela sought a subpoena for the victim's medical records and moved for a new trial, asserting insufficient evidence, ineffective assistance, and instructional error. The district court denied the subpoena and motion for a new trial. The Utah Supreme Court reversed because trial counsel failed to object to a jury instruction that misstated the mens rea requirement, and it clarified statutory and subpoena standards likely to apply on remand.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The conviction was reversed and the matter was remanded for further proceedings, including a new trial. The court directed that the clarified standards governing nonconsent under Utah Code section 76-5-406 and medical-record subpoenas under Utah Rule of Criminal Procedure 14(b) apply if those issues arise on remand.

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Archuleta v. Galetka, 2011 UT 73, ¶ 96, 267 P.3d 232
- State v. Marchet, 2009 UT App 262, ¶¶ 21-23, 219 P.3d 75
- State v. Salazar, 2005 UT App 241, ¶ 9, 114 P.3d 1170
- State v. Myers, 606 P.2d 250, 252 (Utah 1980)
- Encon Utah, LLC v. Fluor Ames Kraemer, LLC, 2009 UT 7, ¶ 73, 210 P.3d 263
- State v. Jeffs, 2010 UT 49, 243 P.3d 1250
- State v. Worthen, 2009 UT 79, ¶ 38, 222 P.3d 1144
- State v. Nielsen, 2014 UT 10, ¶ 46, 326 P.3d 645
- State v. Maughan, 2013 UT 37, ¶ 14, 305 P.3d 1058
- Manzanares v. Byington (In re Adoption of Baby B.), 2012 UT 35, ¶ 41, 308 P.3d 382

- State v. Calamity, 735 P.2d 39, 43 (Utah 1987)
- State v. Hutchings, 2012 UT 50, 285 P.3d 1183
- State v. Powell, 2007 UT 9, 154 P.3d 788
- State v. Casey, 2003 UT 55, 82 P.3d 1106
- State v. Dunn, 850 P.2d 1201, 1225 (Utah 1993)

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