

SUPREME COURT OF WYOMING

Frederik Marinus Tombroek v. State of Wyoming

Tombroek v. State, 217 P.3d 806 (Wyo. 2009) · No. S-09-0015 · Decided October 16, 2009

SUMMARY

The Supreme Court of Wyoming affirmed Frederik Marinus Tombroek’s conviction for first-degree sexual assault. The court held that testimony concerning the victim’s prior consistent statements was properly admitted under Wyoming Rule of Evidence 801(d)(1)(B), and that sufficient evidence supported the finding that the victim was incapable of appraising the nature of her conduct due to a mental disability.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Voigt, Chief Justice; Voigt, C.J.; Golden, J.; Hill, J.; Kite, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	October 16, 2009
DOCKET	S-09-0015
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his jury conviction for first-degree sexual assault, challenging the admission of prior consistent statements and the sufficiency of the evidence supporting the victim's incapacity to appraise the nature of her conduct.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion and will not be disturbed absent a clear abuse of discretion affecting a substantial right. Sufficiency of the evidence is reviewed by accepting the State's evidence and reasonable inferences as true, viewing the evidence in the light most favorable to the State, and determining whether a reasonable jury could find each element proved beyond a reasonable doubt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Frederik Marinus Tombroek v. State of Wyoming

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the district court abused its discretion by admitting testimony about the victim's prior consistent statements under W.R.E. 801(d)(1)(B).
2. Whether sufficient evidence supported the finding that the victim was incapable of appraising the nature of her conduct under Wyo. Stat. Ann. § 6-2-302(a)(iv), and that Tombroek knew or reasonably should have known of that incapacity.

HOLDINGS

1. The district court did not abuse its discretion by admitting the victim's prior statements through testimony from her mother, sister, examining doctor, and investigating officer because the statements satisfied W.R.E. 801(d)(1)(B).
2. Sufficient evidence supported the jury's finding that the victim was incapable of appraising the nature of her sexual conduct because of a mental disability and that Tombroek knew or reasonably should have known both of the disability and its effect.

KEY QUOTATIONS

“The appellant bears the burden of proving an abuse of discretion.” (217 P.3d at 809)

“Four requirements must be satisfied before a prior consistent statement will be properly admissible” (217 P.3d at 810)

“We did, however, acknowledge that W.R.E. 801(d)(1)(B) is susceptible to abuse and we take this opportunity to repeat that concern.” (217 P.3d at 812)

“it is reasonable to conclude that the jury, having heard this testimony, reasonably could have concluded that the appellant knew, or reasonably should have known, that the victim's disability caused her to be unable to appraise the nature of her conduct.” (217 P.3d at 815)

FACTUAL BACKGROUND

The victim, an adult woman with a mental disability, disclosed to her sister, parents, medical providers, and a police officer that Tombroek had sexually assaulted her. At trial, the victim testified, and several witnesses recounted her prior statements concerning the assaults and Tombroek's identity. Evidence showed that the victim had an IQ of approximately 60, was classified as having mild-to-moderate mental retardation, functioned cognitively at approximately a six- to seven-year-old level, and that Tombroek knew of her disability.

PROCEDURAL HISTORY

Tombroek was charged with first-degree sexual assault under Wyo. Stat. Ann. § 6-2-302(a)(iv), tried by a jury, convicted, and sentenced to 14 to 19 years in the state penitentiary. He appealed to the Supreme Court of Wyoming, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Robinson v. State, 11 P.3d 361, 367 (Wyo. 2000), cert. denied, 532 U.S. 980, 121 S. Ct. 1620, 149 L. Ed. 2d 483 (2001)
- Lancaster v. State, 2002 WY 45, ¶¶ 11-13, 17-18, 43 P.3d 80, 87-89 (Wyo. 2002)
- Feeney v. State, 2009 WY 67, ¶ 9, 208 P.3d 50, 53 (Wyo. 2009)
- Martin v. State, 2007 WY 76, ¶ 26, 157 P.3d 923, 929 (Wyo. 2007)
- Curl v. State, 898 P.2d 369, 374 (Wyo. 1995)
- Seward v. State, 2003 WY 116, ¶¶ 14, 16-17, 76 P.3d 805, 811-12 (Wyo. 2003)
- Dike v. State, 990 P.2d 1012, 1024 (Wyo. 1999)
- Alicea v. State, 13 P.3d 693, 699 (Wyo. 2000)
- Wilde v. State, 2003 WY 93, ¶¶ 11-14, 74 P.3d 699, 706-08 (Wyo. 2003)
- Smith v. State, 2009 WY 2, ¶ 8, 199 P.3d 1052, 1056 (Wyo. 2009)
- Martin v. State, 2007 WY 2, ¶ 32, 149 P.3d 707, 715 (Wyo. 2007)
- Saiz v. State, 2001 WY 76, ¶¶ 17-26, 30 P.3d 21, 26-29 (Wyo. 2001)
- Righter v. State, 752 P.2d 416, 420-21 (Wyo. 1988)