

SUPREME COURT OF NEW JERSEY

State v. R.B., 183 N.J. 308

873 A.2d 511 (2005) · Decided May 23, 2005

SUMMARY

The Supreme Court of New Jersey affirmed R.B.'s convictions for sexual offenses involving his six-year-old stepson. The Court held that the child's statements to his mother and police were admissible under the tender years hearsay exception, that the fresh-complaint issue was therefore irrelevant, and that the jury instruction concerning Child Sexual Abuse Accommodation Syndrome was sufficient. The Court also held that the cumulative use of the fresh-complaint evidence and CSAAS testimony did not constitute reversible error and that the prosecutor's summation remarks were not misconduct.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Rivera-Soto; Chief Justice Portiz; Justice LaVecchia; Justice Zazzali; Justice Long; Justice Albin; Justice Wallace
JURISDICTION	New Jersey
DECIDED	May 23, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed convictions for sexual abuse offenses to the New Jersey Supreme Court after the Appellate Division affirmed the convictions but remanded for concurrent sentencing. The Supreme Court granted certification and affirmed the Appellate Division's judgment affirming the convictions.
STANDARD OF REVIEW	Unobjected-to jury-charge claims and the unobjected-to CSAAS-evidence claim were reviewed for plain error under the standard requiring an error clearly capable of producing an unjust result. Prosecutorial-misconduct claims were evaluated under the fair-trial and harmless-error standards, including whether the remarks substantially prejudiced defendant's fundamental right to a fair trial.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Jersey.
PARTIES	R.B. v. State of New Jersey

TOPICS

hearsay

expert testimony

prosecutorial misconduct

harmless error

criminal procedure

PRACTICE AREAS

criminal law

evidence

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether C.R.'s statements to his mother and the police were admissible under N.J.R.E. 803(c)(27), the tender-years exception to the hearsay rule.
2. Whether C.R.'s identification of R.B. was inadmissible because it did not qualify as a fresh complaint.
3. Whether the trial court's nonverbatim CSAAS jury instruction constituted plain error.
4. Whether the cumulative use of fresh-complaint testimony and CSAAS expert testimony constituted reversible error or impermissible bolstering.
5. Whether the prosecutor's summation remarks constituted prosecutorial misconduct requiring reversal.

HOLDINGS

1. The trial court properly admitted C.R.'s statements to his mother and the police under N.J.R.E. 803(c)(27) because the State provided notice, the trial court made the required pretrial trustworthiness finding, and C.R. testified and was subject to cross-examination.
2. Because C.R.'s statements were independently admissible under the tender-years exception, whether his identification of R.B. also qualified as a fresh complaint was irrelevant.
3. The CSAAS instruction was sufficient and did not constitute plain error, even though it did not track the Model Jury Charge verbatim.
4. The fleeting reference by the CSAAS expert to behaviors that coincided with some of C.R.'s behavior was error, but it was harmless and did not require reversal.
5. The prosecutor's remarks concerning the SAVA referral, the ability of the mother, grandmother, and SAVA Unit to detect a lie, and Detective Hadfield's lack of motive to lie were improper in whole or in part, but the trial court's curative actions and the substantial evidence of guilt rendered the remarks harmless and nonreversible.

KEY QUOTATIONS

"The CSAAS charge as a whole was proper, a conclusion further underscored by R.B.'s failure to contemporaneously object to it at trial." (183 N.J. at 324)

"We again reinforce the overarching principle that CSAAS expert testimony cannot be allowed as substantive proof to establish guilt or innocence." (183 N.J. at 325)

"A defendant is entitled to a fair trial but not a perfect one." (183 N.J. at 328)

FACTUAL BACKGROUND

R.B. was convicted of sexually abusing his six-year-old stepson, C.R. C.R. initially denied inappropriate touching, then implicated his biological father and retracted that accusation before identifying R.B. as the assailant; he later gave a detailed taped statement to police and testified at trial. The State's evidence included C.R.'s statements, testimony about his behavior and delayed disclosure, CSAAS expert testimony, and R.B.'s statement that he may have touched C.R.'s genitalia but could not recall because of alleged blackouts.

PROCEDURAL HISTORY

After a first trial ended in a hung jury, defendant was retried and convicted on all four indictment counts. The trial court admitted the victim's statements to his mother and police under the tender-years hearsay exception, admitted defendant's post-arrest statement, imposed consecutive terms totaling twenty-five years, and declared certain convictions merged. The Appellate Division affirmed the convictions but remanded for concurrent terms on the merged charges. The Supreme Court granted certification and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966)
- *State v. Balles*, 47 N.J. 331, 338, 221 A.2d 1 (1966)
- *State v. D.R.*, 109 N.J. 348, 371-77, 537 A.2d 667 (1988)
- *State v. Hock*, 54 N.J. 526, 538, 257 A.2d 699 (1969), cert. denied, 399 U.S. 930 (1970)
- *State v. J.Q.*, 130 N.J. 554, 564-84, 617 A.2d 1196 (1993)
- *State v. Michaels*, 264 N.J.Super. 579, 599, 625 A.2d 489 (App. Div. 1993), aff'd, 136 N.J. 299, 642 A.2d 1372 (1994)
- *State v. P.H.*, 178 N.J. 378, 395-96, 840 A.2d 808 (2004)
- *State v. Spruell*, 121 N.J. 32, 42, 577 A.2d 821 (1990)
- *State v. Hipplewith*, 33 N.J. 300, 317, 164 A.2d 481 (1960)
- *State v. Kelly*, 97 N.J. 178, 209, 478 A.2d 364 (1984)
- *Evers v. Dollinger*, 95 N.J. 399, 471 A.2d 405 (1984)
- *State v. R.W.*, 104 N.J. 14, 30-31, 514 A.2d 1287 (1986)
- *State v. Myers*, 359 N.W.2d 604 (Minn. 1984)
- *State v. Roberts*, 139 Ariz. 117, 122, 677 P.2d 280, 285 (App. 1983)
- *State v. Ramseur*, 106 N.J. 123, 323-24, 524 A.2d 188 (1987), cert. denied, 508 U.S. 947 (1993)
- *State v. Mayberry*, 52 N.J. 413, 437, 245 A.2d 481 (1968), cert. denied, 393 U.S. 1043 (1969)
- *State v. Carter*, 91 N.J. 86, 125, 449 A.2d 1280 (1982)
- *State v. Bankston*, 63 N.J. 263, 273, 307 A.2d 65 (1973)
- *State v. Macon*, 57 N.J. 325, 335-36, 273 A.2d 1 (1971)
- *State v. Goode*, 278 N.J.Super. 85, 90, 650 A.2d 393 (App. Div. 1994)

- State v. Staples, 263 N.J.Super. 602, 604-06, 623 A.2d 791 (App. Div. 1993), certif. denied, 137 N.J. 313, 645 A.2d 140 (1994)
- State v. Jones, 104 N.J.Super. 57, 65, 248 A.2d 554 (App. Div. 1968), certif. denied, 53 N.J. 354, 250 A.2d 755 (1969)
- State v. Frost, 158 N.J. 76, 82-89, 727 A.2d 1 (1999)
- State v. Bucanis, 26 N.J. 45, 56, 138 A.2d 739 (1957), cert. denied, 357 U.S. 910 (1958)
- State v. Walden, 370 N.J.Super. 549, 560, 851 A.2d 758 (App. Div. 2004), certif. denied, 182 N.J. 148, 862 A.2d 56 (2004)
- State v. Frisby, 174 N.J. 583, 593-96, 811 A.2d 414 (2002)
- State v. Smith, 167 N.J. 158, 184-85, 770 A.2d 255 (2001)
- State v. Pasterick, 285 N.J.Super. 607, 620, 667 A.2d 1103 (App. Div. 1995)
- State v. W.L., 278 N.J.Super. 295, 301-02, 650 A.2d 1035 (App. Div. 1995)
- State v. Marshall, 123 N.J. 1, 154, 156, 169-70, 586 A.2d 85 (1991), cert. denied, 507 U.S. 929 (1993)
- Lutwak v. United States, 344 U.S. 604, 619, 73 S.Ct. 481, 97 L.Ed. 593 (1953)
- State v. Koskovich, 168 N.J. 448, 507, 776 A.2d 144 (2001)

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