

SUPREME COURT OF MISSOURI

State of Missouri v. Shane A. Vorhees

248 S.W.3d 585 (Mo. banc 2008) · No. SC 88553 · Decided February 19, 2008

SUMMARY

The Supreme Court of Missouri held that evidence of a defendant's prior sexual misconduct may not be admitted solely to corroborate an alleged victim's testimony under a signature modus operandi theory. The court concluded that such evidence is propensity evidence and violates the Missouri Constitution's guarantee that a defendant be tried only for the charged offense. The judgment was reversed and the case remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Michael A. Wolff; Stith, C.J.; Teitelman; Limbaugh; Russell; Breckenridge
JURISDICTION	Missouri
DECIDED	February 19, 2008
DOCKET	SC 88553
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Vorhees appealed his convictions for first-degree statutory rape and first-degree statutory sodomy, challenging the admission of evidence of prior uncharged sexual conduct with another minor to corroborate the alleged victim's testimony and challenging the constitutionality of section 566.025.
STANDARD OF REVIEW	The admissibility of prior-bad-acts evidence is reviewed under the applicable evidentiary and constitutional standards; the court addressed the constitutional validity of the signature modus operandi corroboration exception de novo.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; binding Missouri precedent.
PARTIES	Shane A. Vorhees v. State of Missouri

TOPICS

evidence

character evidence

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PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether evidence of prior uncharged sexual conduct may be admitted solely to corroborate an alleged victim's testimony that the charged sexual offense occurred.
2. Whether Missouri's signature modus operandi corroboration exception to the general prohibition on prior-bad-acts evidence is constitutional.
3. Whether the trial court erred by admitting the prior-act evidence under section 566.025, RSMo 2000.

HOLDINGS

1. Evidence of prior bad acts, regardless of how similar or distinctive those acts are, may not be admitted solely to corroborate an alleged victim's testimony because that use is propensity evidence and violates the Missouri Constitution's guarantee that a defendant be tried only for the offense charged.
2. Missouri's signature modus operandi corroboration exception is invalid because it is merely propensity evidence masquerading as an identity exception.
3. The trial court erred by admitting J.W.'s testimony concerning prior uncharged sexual conduct to corroborate S.W.'s testimony.

KEY QUOTATIONS

“Signature evidence used for corroboration is, at base, propensity evidence masquerading under the well-recognized identity exception, a category of exception in which it does not belong.” (590)

“Evidence of prior bad acts, regardless of the degree of their similarity to the acts in the charged case, may not be admitted to corroborate victim testimony.” (591)

“When offered to corroborate an alleged victim's testimony, evidence of a signature modus operandi — like the propensity evidence in Ellison and its precedent cases— violates the Missouri constitution's guarantee that a defendant will be tried only for the crime charged.” (592)

FACTUAL BACKGROUND

S.W. testified that her stepfather, Shane Vorhees, sexually assaulted her repeatedly over approximately two years beginning when she was thirteen. The prosecution sought to corroborate S.W.'s testimony with J.W.'s account of an earlier sexual assault by Vorhees when J.W. was six, which involved several similarities, including use of saliva as lubricant and urination in the victim's mouth. The trial court admitted J.W.'s testimony, and the jury convicted Vorhees of first-degree statutory rape and first-degree statutory sodomy.

PROCEDURAL HISTORY

Vorhees was indicted, tried, and convicted of first-degree statutory rape and first-degree statutory sodomy. The circuit court admitted testimony concerning prior uncharged sexual abuse involving another minor after finding the evidence more probative than prejudicial under section 566.025, overruled Vorhees's constitutional objections, and imposed two consecutive thirty-year sentences. The Supreme Court of Missouri reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the circuit court was reversed and the cause remanded for a new trial.

CASES CITED

- State v. Ellison, 239 S.W.3d 603 (Mo. 2007)
- State v. Reese, 274 S.W.2d 304, 307 (Mo. 1954)
- State v. Sladek, 835 S.W.2d 308, 311 (Mo. banc 1992)
- State v. Burns, 978 S.W.2d 759, 760 (Mo. banc 1998)
- State v. Whitt, 592 S.W.2d 316, 317 (Mo. App. 1979)
- State v. Koster, 684 S.W.2d 488, 491 (Mo. App. 1984)
- Jones v. State, 460 So. 2d 1384 (Ala. Crim. App. 1984)
- State v. Bernard, 849 S.W.2d 10, 17, 26 (Mo. banc 1993)
- State v. Gilyard, 979 S.W.2d 138, 140-42 (Mo. banc 1998)
- State v. Phillips, 399 S.E.2d 293 (N.C. 1991)
- State v. Damewood, 783 P.2d 1249 (Kan. 1989)
- State v. Cox, 169 P.3d 806 (Utah Ct. App. 2007)
- State v. Spaulding, 313 N.W.2d 878 (Iowa 1981)
- People v. Donoho, 788 N.E.2d 707 (Ill. 2003)
- Sandy v. State, 870 P.2d 352 (Wyo. 1994)
- State v. Fears, 688 P.2d 88 (Or. Ct. App. 1984)