

SUPREME COURT OF RHODE ISLAND

State v. Castellucci

771 A.2d 902 (R.I. 2001) · Decided April 18, 2001

SUMMARY

The Rhode Island Supreme Court affirmed Thomas Castellucci’s convictions for one count of first-degree child molestation and two counts of second-degree child molestation. The court held that the trial justice properly excluded cross-examination concerning alleged prior sexual conduct because the defendant failed to provide the notice required by Rhode Island’s rape-shield statute, and that the venue challenge was waived because it was not raised below.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	April 18, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed convictions following a jury-waived Superior Court trial for one count of first-degree child molestation and two counts of second-degree child molestation.
STANDARD OF REVIEW	Issues not properly presented to the trial court are not considered for the first time on appeal; evidentiary and cross-examination rulings are reviewed in the context of whether the trial justice properly applied the governing statute and rules.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion
PARTIES	Thomas Castellucci v. State of Rhode Island

TOPICS

- criminal procedure
- evidence
- preservation of error
- appellate procedure
- impeachment

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- appellate practice

QUESTIONS PRESENTED

1. Whether the trial justice properly applied Rhode Island's rape-shield statute by precluding defense counsel from pursuing cross-examination about an alleged prior sexual incident involving the victim and a cousin when the defendant gave no advance notice.
2. Whether the trial justice erred by admitting testimony establishing that the alleged offenses occurred within Rhode Island when the defendant did not object at trial.
3. Whether the State was required to prove venue in Rhode Island as an element of the charged crimes.

HOLDINGS

1. The trial justice properly precluded further questioning about the victim's alleged prior sexual conduct because the defendant failed to provide the advance notice required by G.L. 1956 § 11-37-13 and Rhode Island Rule of Evidence 412.
2. The defendant waived his challenge to testimony establishing that the alleged crimes occurred in Rhode Island because he did not object when the testimony was offered at trial.
3. The State was not required to prove venue as an element of the crimes.

KEY QUOTATIONS

“The trial justice acted completely in accord • with the statutory provisions by prohibiting this line of inquiry.” (771 A.2d at 903)

“It is axiomatic that ‘this [C]ourt will not consider an issue raised for the first time on appeal that was not properly presented before the trial court.’” (771 A.2d at 903)

FACTUAL BACKGROUND

In 1996, sixty-nine-year-old Castellucci developed a relationship with a twelve-year-old boy through meetings at baseball games and subsequent outings. The boy testified that Castellucci touched him under his clothing and performed oral-genital contact at a soccer field in Coventry, Rhode Island. The boy later disclosed the incidents to his mother, leading to Castellucci's indictment and convictions.

PROCEDURAL HISTORY

A Superior Court justice found Castellucci guilty after a jury-waived trial in December 1998. On appeal, he challenged the application of Rhode Island's rape-shield statute, the restriction of cross-examination, and the admission of evidence concerning territorial jurisdiction. The Supreme Court decided the appeal summarily after oral argument under a show-cause order.

DISPOSITION

affirmed

CASES CITED

- State v. Saluter, 715 A.2d 1250, 1258 (R.I. 1998)

- State v. Rivera, 640 A.2d 524, 526-27 (R.I. 1994)

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