

SUPREME COURT OF NEBRASKA

State v. Vanderford

312 Neb. 580 (2022) · No. No. S-20-849 · Decided October 14, 2022

SUMMARY

The Nebraska Supreme Court affirmed Christine E. Vanderford’s conviction for exploiting a vulnerable adult under Neb. Rev. Stat. § 28-386. The court held that the offense requires a knowing and intentional act causing or permitting a vulnerable adult to be subjected to exploitation as defined by the Adult Protective Services Act, and concluded that sufficient evidence supported the conviction. The court also rejected arguments concerning the acquittal on a separate theft charge, the sufficiency of the trial court’s findings, and sentencing remarks.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Stacy, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	October 14, 2022
DOCKET	No. S-20-849
DISPOSITION	affirmed
PROCEDURAL POSTURE	Vanderford appealed her conviction after a Nebraska district court bench trial found her guilty of exploiting a vulnerable adult and sentenced her to five years' probation.
STANDARD OF REVIEW	For a criminal conviction after a bench trial, the appellate court views properly admitted evidence most favorably to the State and asks whether any rational trier of fact could have found the essential elements beyond a reasonable doubt; it does not resolve conflicts, assess credibility, evaluate explanations, or reweigh evidence. Statutory interpretation is reviewed independently as a question of law.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Christine E. Vanderford v. State of Nebraska

TOPICS

statutory interpretation

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether exploitation of a vulnerable adult under Neb. Rev. Stat. §§ 28-386, 28-371, and 28-358 requires proof of an underlying financial crime.
2. Whether the evidence was sufficient to establish that Vanderford's payments from J.R.K.'s accounts were wrongful or unauthorized.
3. Whether the State proved the knowing and intentional mens rea required for exploitation of a vulnerable adult.
4. Whether Vanderford's acquittal on theft required reversal of her exploitation conviction because the verdicts were inconsistent.
5. Whether the trial judge's sentencing remarks undermined the guilty verdict.
6. Whether the district court was required to make detailed findings of fact and conclusions of law in a criminal bench trial.

HOLDINGS

1. A person commits exploitation of a vulnerable adult under Neb. Rev. Stat. § 28-386 by knowingly and intentionally engaging in an act that causes or permits a vulnerable adult, as defined in § 28-371, to be subjected to exploitation, as defined in § 28-358.
2. Proof of an underlying financial crime is not required to establish exploitation of a vulnerable adult because the statutory definition is not limited to financial crimes.
3. The evidence was sufficient for a rational fact finder to conclude beyond a reasonable doubt that Vanderford knowingly and intentionally caused or permitted J.R.K. to be exploited.
4. A conviction for exploitation of a vulnerable adult cannot be overturned merely because it is inconsistent with an acquittal on a separate theft charge.
5. The offense requires a knowing and intentional act causing or permitting exploitation; a breach of fiduciary duty is a means of committing exploitation, not the offense's mens rea.
6. A criminal trial judge sitting without a jury is not required to articulate findings of fact or conclusions of law, although the judge has discretion to do so.

KEY QUOTATIONS

“Reading §§ 28-386, 28-371, and 28-358 together, it is clear that a person commits the crime of exploiting a vulnerable adult by knowingly and intentionally engaging in an act which causes or permits a “vulnerable adult,” as that term is defined in § 28-371, to be subjected to “exploitation,” as that term is defined in § 28-358.” (594)

“And although the statutory definition of exploitation in § 28-358 is broad enough to encompass what might generally be described as financial exploitation, it is by no means limited to only financial crimes.” (595)

“Moreover, a conviction on one count cannot be overturned merely because it is inconsistent with the fact finder’s decision not to convict on another count.” (600)

“In Nebraska, a trial judge sitting without a jury is not required to articulate findings of fact or conclusions of law in criminal cases.” (604-605)

FACTUAL BACKGROUND

Christine E. Vanderford served as court-appointed coguardian for J.R.K., an adult woman with mental disabilities, and later became cotrustee of J.R.K.'s special needs trust. Vanderford controlled multiple accounts belonging to J.R.K., paid herself or her law firm from those accounts for legal and personal services, and generally did so without obtaining the court approval required by the letters of guardianship. She also failed to include all accounts under her control in annual guardianship accountings; investigators identified 16 payments to her totaling \$65,258.89.

PROCEDURAL HISTORY

Vanderford was charged with exploitation of a vulnerable adult and theft. After a bench trial, the district court convicted her of exploitation, acquitted her of theft, denied her motion for new trial, and imposed five years' probation. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Taylor, 310 Neb. 376, 966 N.W.2d 510 (2021)
- State v. Chase, 310 Neb. 160, 964 N.W.2d 254 (2021)
- State v. Knight, 311 Neb. 485, 973 N.W.2d 356 (2022)
- State v. Hofmann, 310 Neb. 609, 967 N.W.2d 435 (2021)
- State v. Grutell, 305 Neb. 843, 943 N.W.2d 258 (2020)
- Gonzales v. Nebraska Pediatric Practice, 308 Neb. 571, 955 N.W.2d 696 (2021)
- State v. Malone, 308 Neb. 929, 957 N.W.2d 892 (2021), modified on denial of rehearing, 309 Neb. 399, 959 N.W.2d 818
- State v. Dehning, 296 Neb. 537, 894 N.W.2d 331 (2017)
- State v. Briggs, 303 Neb. 352, 929 N.W.2d 65 (2019)
- People v. Collins, 26 Cal. 4th 297, 27 P.3d 726, 109 Cal. Rptr. 2d 836 (2001)
- State v. Franklin, 241 Neb. 579, 489 N.W.2d 552 (1992)
- State v. Lozano, 209 Neb. 772, 311 N.W.2d 529 (1981)
- State v. Cowan, 204 Neb. 708, 285 N.W.2d 113 (1979)

- State v. Dake, 247 Neb. 579, 529 N.W.2d 46 (1995)

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