

SUPREME COURT OF MISSOURI

State v. Ruff

256 S.W.3d 55 (Mo. banc 2008) · No. SC 88936 · Decided June 24, 2008

SUMMARY

The Supreme Court of Missouri held that Huntley Ruff’s motion for post-conviction DNA testing adequately alleged that identity was at issue and satisfied the pleading requirements of Missouri Revised Statutes section 547.035. The court reversed the denial of the motion without a hearing and remanded for appropriate DNA testing and relief.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	William Ray Price, Jr.
JURISDICTION	Missouri
DECIDED	June 24, 2008
DOCKET	SC 88936
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial, without a hearing, of a post-conviction motion for DNA testing under section 547.035, RSMo.
STANDARD OF REVIEW	Denial of a post-conviction motion for DNA testing is reviewed for clear error. Findings and conclusions are clearly erroneous when, after review of the record, the appellate court is left with a definite and firm impression that a mistake has been made.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; precedential.
PARTIES	Huntley Ruff v. State of Missouri

TOPICS

- post-conviction relief
- actual innocence
- evidence
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- Missouri post-conviction DNA testing
- criminal procedure
- actual innocence
- evidence

QUESTIONS PRESENTED

1. Whether Ruff's motion adequately alleged that identity was an issue in the trial under section 547.035.2(4), even though his trial counsel stated that the case was not one of mistaken identity.
2. Whether Ruff's motion satisfied the pleading requirements for DNA testing under section 547.035 when it identified potentially testable evidence and alleged a reasonable probability of a different result.
3. Whether the motion court clearly erred by overruling the DNA-testing motion without a hearing.

HOLDINGS

1. The statutory requirement that identity be at issue is broader than a claim of mistaken identity. Identity is at issue when a defendant claims he did not commit the charged acts, even if he does not specifically assert that another person committed the crime.
2. Ruff's motion adequately alleged the statutory prerequisites for DNA testing, and any potential pleading deficiencies were negated by the State's admission that vaginal swabs had been collected and likely contained semen from the rapist.
3. The motion court clearly erred by overruling Ruff's motion without a hearing; the case must be reversed and remanded for appropriate DNA testing and relief under section 547.035.7.

KEY QUOTATIONS

"The statute requires that "identity be at issue" in the trial, a broader concept than "mistaken identity." (57)

"The phrase "identity at issue" encompasses "mistaken identity," but it also includes all cases in which the defendant claims that he did not commit the acts alleged-as opposed to cases where the defendant admits his actions but puts forth an affirmative defense." (57)

"These inmates are unlikely to have access to specific facts without the assistance of counsel." (58)

FACTUAL BACKGROUND

Ruff was convicted of forcible rape, sodomy, armed criminal action, and first-degree robbery arising from crimes in a hotel room, and the victim identified him as the assailant. Ruff consistently claimed innocence and alleged that the victim falsely identified him to support a civil action against the hotel. He sought DNA testing of possible biological and other evidence, including semen, blood, hair, and saliva, asserting that testing was unavailable at the time of his trial. The State acknowledged on appeal that vaginal swabs had been collected and that the semen in the swabs was probably from the rapist.

PROCEDURAL HISTORY

Ruff, who was serving a 160-year sentence for forcible rape, sodomy, armed criminal action, and first-degree robbery, filed a pro se motion seeking DNA testing. The motion court overruled the motion under section 547.035.2(4), concluding that Ruff had not alleged facts showing identity was an issue at trial. The Supreme Court of Missouri reversed and remanded with directions to order appropriate testing and relief.

DISPOSITION

REMAND INSTRUCTIONS

Reverse the motion court's judgment and remand with directions to order appropriate DNA testing and relief in accordance with section 547.035.7.

CASES CITED

- Weeks v. State, 140 S.W.3d 39, 44 (Mo. banc 2004)
- Weeks v. State, 140 S.W.3d 39, 47 n. 8 (Mo. banc 2004)
- Anderson v. State, 831 A.2d 858, 865 (Del. 2003)
- State v. Donovan, 853 A.2d 772, 776 (Me. 2004)
- People v. Urioste, 316 Ill. App. 3d 307, 249 Ill. Dec. 512, 736 N.E.2d 706, 714 (2000)
- Richardson v. Richardson, 218 S.W.3d 426, 428 (Mo. banc 2007)

OPINION

PRICE, J.

256 S.W.3d 55 (2008) STATE of Missouri, Respondent, v. Huntley RUFF, Appellant. No. SC 88936. Supreme Court of Missouri, En Banc. June 24, 2008. *56 Ellen Y. Suni, Dean, Kansas City, for Appellant. Jeremiah W. (Jay) Nixon, Atty. Gen., Roger W. Johnson, Shaun J. Mackelprang, Asst. Atty. Gen's, Jefferson City, for Respondent. WILLIAM RAY PRICE, JR., Judge.

I. Introduction Huntley Ruff is currently incarcerated for a rape he claims he did not commit. In an attempt to prove his innocence, he sought DNA testing pursuant to section 547.035, RSMo Supp.2001. Because the trial court incorrectly overruled Ruff's motion for testing without a hearing, the judgment is reversed and the case remanded. II. Facts Huntley Ruff is serving a 160 year sentence following conviction for forcible rape, sodomy, armed criminal action, and first degree robbery.

These crimes occurred in a hotel room, and the victim identified Ruff as the assailant. Ruff has always claimed his innocence. Specifically, Ruff argued that the victim saw him working at the hotel where the crimes reportedly occurred and identified him as the perpetrator in an effort to further a civil suit against the hotel.

In June 2005, Ruff filed a pro se motion for DNA testing pursuant to section 547.035. His motion alleged that he was factually innocent and that there was evidence from "blood, hair, semen, phosphate, saliva, tissue, [and] fibers" that could be tested for DNA, and that this testing was not available at the time of his trial in the mid-1980s.

In December 2005, the trial court overruled the motion pursuant to section 547.035.2(4). Section 547.035.2(4) requires the motion to allege facts under oath that "identity was an issue in the trial." Ruff now appeals. III. Standard of Review Denial of a post-conviction motion for DNA testing is reviewed to determine whether the motion court's findings of fact and conclusions of law were clearly erroneous.

Weeks v. State, 140 S.W.3d 39, 44 (Mo. banc 2004). The motion court's findings and conclusions are clearly erroneous only if, after review of the record, "the appellate court is left with the definite and firm impression that a mistake has been made." *Id.* (internal citation omitted). Where, as here, the motion is overruled without a hearing, this Court reviews the lower court's determination for clear error.

Id. IV. Analysis A. 1. Section 547.035 provides for DNA testing for any person "in the custody of the department of corrections claiming that forensic DNA testing will demonstrate the person's innocence of the crime for which the person is in custody." *Id.* To succeed *57 in the motion, the prisoner must allege facts under oath demonstrating that: (1) There is evidence upon which DNA testing can be conducted; and (2) The evidence was secured in relation to the crime; and (3) The evidence was not previously tested by the movant...; and (4) Identity was an issue in the trial; and (5) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing.

Id. at 547.035.2. Here, the court overruled Ruff's motion pursuant to section 547.035.2(4). In other words, the court determined that Ruff had failed to allege facts demonstrating that identity was an issue in the trial. 2. At the original trial, Ruff argued that the alleged victim had fabricated the rape claims to further a civil suit against the hotel and that she only identified Ruff as the assailant because she remembered his face from earlier in the day.

Ruff's defense counsel summed up this theory by arguing that "[t]his is not a case of mistaken identity." The state points to this statement as evidence that identity was not at issue in the trial. However, the DNA testing statute does not require "mistaken identity."

The statute requires that "identity be at issue" in the trial, a broader concept than "mistaken identity." In the context of the statute, "mistaken identity" occurs when the defendant alleges that the crime in question was committed by another person.

The phrase "identity at issue" encompasses "mistaken identity," but it also includes all cases in which the defendant claims that he did not commit the acts alleged-as opposed to cases where the defendant admits his actions but puts forth an affirmative defense. See *Weeks*, 140 S.W.3d at 47 n. 8. Other states have similarly held. See *Anderson v. State*, 831 A.2d 858, 865 (Del.

2003) ("Identity is always an issue in a criminal trial unless the defendant admits having engaged in the alleged conduct and relies on a defense such as consent or justification."); *State v. Donovan*,

853 A.2d 772, 776 (Me.2004) ("[I]dentity may be at issue during a trial even when the alleged victim identifies only the defendant as the perpetrator of a crime but the defendant claims no crime was committed."); *People v. Urioste*, 316 Ill.App.3d 307, 249 Ill. Dec.

512, 736 N.E.2d 706, 714 (2000) ("Where a defendant contests guilt based upon self-defense, compulsion, entrapment, necessity, or a plea of insanity, identity ceases to be the issue."). B. 1. The state argues that even if identity was at issue in the trial, Ruff's motion for DNA testing failed to meet minimum pleading requirements.

In reviewing the adequacy of a pleading, the court assumes all allegations are true and liberally grants all reasonable inferences therefrom. *Richardson v. Richardson*, 218 S.W.3d 426, 428 (Mo. banc 2007). 2. In his petition, Ruff states that "[t]here is 'DNA' or other testable evidence covered by RSMo section 547.035 within the custody of the city, county, state or federal entities that can be tested [and the] facts of Defendant's case falls within the procedures outlined by the statute."

He further states that "[t]here is a reasonable probability that the results of the defendant's conviction(s) would have been different as *58 outlined by the statute." Ruff then lists seven possible items that he believes can be tested, including blood, hair, saliva, and, most importantly, semen.

The adequacy of Ruff's motion must be considered in light of the purpose of section 547.035: to provide inmates an opportunity to have potentially exculpatory DNA tests performed on evidence. These inmates are unlikely to have access to specific facts without the assistance of counsel.

Here, the state admitted in its brief before the Court of Appeals that vaginal swabs were collected, and that "the semen in the vaginal swabs was probably from the rapist." Resp't. Appeal Br. at 18. Any potential deficiencies in Ruff's pleading are negated by the state's admission and the resulting lack of prejudice.

V. Conclusion Having found that all requirements of 547.035 are satisfied, we reverse and remand with directions to order appropriate testing and relief in accordance with section 547.035.7. All Concur.