

SUPREME COURT OF NEW JERSEY

State of New Jersey v. Kader S. Mustafa

A-59-24 (090329) · No. A-59-24 (090329); A-59 September Term 2024 · Decided August 3, 2026

SUMMARY

The Supreme Court of New Jersey held that expert testimony is required for a defendant to invoke the diminished-capacity defense and for a trial court to instruct the jury on that defense. The Court concluded that lay testimony describing bizarre behavior or substance use cannot, without expert interpretation, establish a mental disease or defect affecting the defendant’s ability to form the requisite mens rea. The Court affirmed the denial of Kader S. Mustafa’s requested diminished-capacity instruction and his convictions.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Pierre-Louis; Chief Justice Rabner; Justice Patterson; Justice Wainer Apter; Justice Fasciale; Justice Noriega; Justice Hoffman
JURISDICTION	Supreme Court of New Jersey
DECIDED	August 3, 2026
DOCKET	A-59-24 (090329); A-59 September Term 2024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his criminal convictions and denial of a diminished-capacity jury instruction. The Supreme Court of New Jersey granted certification to decide whether expert testimony is necessary for a jury to be instructed on diminished capacity.
STANDARD OF REVIEW	Because defendant objected to the refusal to give the requested jury instruction, the court applied harmless-error review; the underlying determination whether the instruction was required depended on whether expert testimony was necessary to invoke diminished capacity.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Jersey.
PARTIES	Kader S. Mustafa v. State of New Jersey

TOPICS

jury instructions

evidence

expert testimony

mens rea

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether expert testimony is required for a defendant to invoke New Jersey's diminished-capacity defense.
2. Whether expert testimony is required before a trial court may instruct the jury on diminished capacity.
3. Whether lay testimony describing unusual or bizarre behavior, without expert testimony linking a mental disease or defect to the defendant's ability to form mens rea, is sufficient to warrant a diminished-capacity instruction.

HOLDINGS

1. Expert psychological or psychiatric testimony is required for a defendant to invoke the diminished-capacity defense under N.J.S.A. 2C:4-2.
2. A trial court may not instruct the jury on diminished capacity unless expert testimony is presented.
3. Lay testimony may describe a defendant's observed behavior but cannot, standing alone, establish a mental disease or defect or show that the condition impaired the defendant's ability to form mens rea.

KEY QUOTATIONS

"Understanding what is or is not a mental "disease or defect" -- and further determining whether that ailment altered defendant's state of mind at the time of the offense -- requires specialized knowledge beyond the ken of average jurors." (25)

"Given the complexity of diagnosing mental health illnesses and, in some cases, the added variable of controlled substance use, jurors should not be left to make assumptions about a defendant's mental status and the impact that such mental status had on the defendant's ability to form the requisite mens rea without testimony from an expert witness to assist the jury in understanding any diminished capacity evidence before them." (28-29)

"But only an expert can explain whether defendant was suffering from a mental disease or defect and whether that disease or defect affected defendant's capacity to form the requisite mens rea to commit the charged offense." (33)

"In order for the jury to be instructed on diminished capacity, expert testimony must be presented." (33)

FACTUAL BACKGROUND

On May 3, 2018, Mustafa fatally shot Sciasia Calhoun from a vehicle while both vehicles were traveling on Route 33 in New Jersey. Calhoun's passenger-side circumstances and the events preceding the shooting involved high beams, Mustafa's pursuit of Calhoun's vehicle, and Mustafa firing a gun toward it. Mustafa's former

girlfriend, Nicole Fiore, testified about his unusual beliefs, alleged persecution, substance use, and behavior before and during the incident. The defense introduced no expert testimony or other evidence identifying a mental disease or defect and did not present witnesses.

PROCEDURAL HISTORY

A Monmouth County grand jury indicted Mustafa on six counts, including first-degree murder, weapons-possession, and endangering charges. After the trial court denied his request for a diminished-capacity instruction, the jury convicted him on all charges and the court imposed an aggregate life sentence. The trial court denied his motion for a new trial. The Appellate Division affirmed, and the Supreme Court granted certification.

DISPOSITION

affirmed

CASES CITED

- State v. Cooper, 256 N.J. 593, 607-08 (2024)
- Willner v. Vertical Reality, Inc., 235 N.J. 65, 80 (2018)
- State v. J.L.G., 234 N.J. 265, 305 (2018)
- State v. Fortin, 189 N.J. 579, 596-97 (2007)
- State v. Hannah, 263 N.J. 411, 445, 447 (2026)
- Davis v. Brickman Landscaping, Ltd., 219 N.J. 395, 407-08 (2014)
- Sanzari v. Rosenfeld, 34 N.J. 128, 134-35 (1961)
- Butler v. Acme Mkts., Inc., 89 N.J. 270, 283 (1982)
- Torres v. Schripps, Inc., 342 N.J. Super. 419, 430 (App. Div. 2001)
- State v. Kelly, 97 N.J. 178, 209 (1984)
- State v. Bealor, 187 N.J. 574, 586 (2006)
- State v. Johnson, 120 N.J. 263, 294 (1990)
- State v. Ridsen, 56 N.J. 27, 33-34, 40-41 (1970)
- State v. Delibero, 149 N.J. 90, 92, 98 (1997)
- State v. Galloway, 133 N.J. 631, 642-49 (1993)
- State v. Breakiron, 108 N.J. 591, 609-10, 616, 618 n.10 (1987)
- State v. Reyes, 140 N.J. 344, 354, 359, 361 (1995)
- State v. Rivera, 205 N.J. 472, 487-88 (2011)
- Humanik v. Beyer, 871 F.2d 432, 443 (3d Cir. 1989)
- Clark v. Arizona, 548 U.S. 735, 769-71 (2006)
- State v. Arrington, 480 N.J. Super. 428 (App. Div. 2024)
- Mullarney v. Bd. of Rev., 343 N.J. Super. 401, 408 (App. Div. 2001)

- State v. Chambers, 252 N.J. 561, 582 (2023)
- Crane v. Kentucky, 476 U.S. 683, 690 (1986)
- California v. Trombetta, 467 U.S. 479, 485 (1984)
- Holmes v. South Carolina, 547 U.S. 319, 326 (2006)
- State v. Budis, 125 N.J. 519, 531 (1991)

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