

SUPREME COURT OF NEW JERSEY

State v. Nash

212 N.J. 518 (2013) · Decided January 22, 2013

SUMMARY

The New Jersey Supreme Court considers whether Asida Nash was entitled to a new trial based on newly discovered evidence that the alleged victim was accompanied by an aide during the school day. The Court held that the evidence qualified as newly discovered evidence and that, if presented to the jury, it probably would have produced a different result. Because the integrity of the verdict was cast in doubt, the Court ordered a new trial on all charges.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Albin; Chief Justice Rabner; Justice LaVecchia; Justice Hoens; Justice Patterson; Judge Cuff
JURISDICTION	New Jersey
DECIDED	January 22, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Nash sought post-conviction relief and a new trial based on ineffective assistance of counsel, prosecutorial misconduct, and newly discovered evidence concerning the assignment of an aide to the alleged victim. The Supreme Court of New Jersey granted certification, rejected the ineffective-assistance and prosecutorial-misconduct claims, but ordered a new trial based on newly discovered evidence.
STANDARD OF REVIEW	The Supreme Court deferred to PCR-court factual findings based on live testimony when supported by sufficient credible evidence, reviewed legal conclusions de novo, and reviewed the newly discovered evidence claim under the three-prong Carter test.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Asida Nash v. State of New Jersey

TOPICS

- post-conviction relief
- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Nash's trial counsel rendered ineffective assistance by failing to investigate and present evidence that an aide accompanied J.B. throughout the school day.
2. Whether the prosecutor committed misconduct or violated due process by withholding exculpatory information concerning J.B.'s aide or by eliciting misleading testimony from the school principal.
3. Whether evidence that a classroom aide was assigned to monitor and accompany J.B. constituted newly discovered evidence warranting a new trial under the Carter test.
4. Whether a new trial based on the evidence concerning J.B. should extend to all charges, including the charge involving K.L.

HOLDINGS

1. Nash did not establish constitutionally deficient performance by trial counsel because the PCR court's finding that counsel conducted a reasonably diligent investigation and made strategic decisions supported by the record was entitled to deference.
2. Nash did not establish prosecutorial misconduct or a due-process violation because the PCR court credited the prosecutor's testimony that she did not know that J.B. was monitored by an aide and would have disclosed the information had she possessed it.
3. Evidence that J.B. was assigned an aide who accompanied or closely monitored him throughout most of the school day was newly discovered evidence satisfying all three Carter prongs and warranting a new trial.
4. The new trial had to be conducted on all charges, including the charge involving K.L., because the principal's misleading testimony damaged Nash's overall credibility and that damage could not be compartmentalized.

KEY QUOTATIONS

"Evidence is newly discovered and sufficient to warrant the grant of a new trial when it is "(1) material to the issue and not merely cumulative or impeaching or contradictory; (2) discovered since the trial and not discoverable by reasonable diligence beforehand; and (3) of the sort that would probably change the jury's verdict if a new trial were granted."" (212 N.J. at 549)

"Because the evidence discovered since the first trial would probably lead to a different result if presented to a newly impaneled jury, Nash is entitled to a new trial." (212 N.J. at 553)

"The damage done to Nash's credibility cannot be compartmentalized; it infected the whole trial, including Nash's ability to defend against the claim made by K.L." (212 N.J. at 554)

FACTUAL BACKGROUND

Nash, a middle-school librarian, was convicted largely on the testimony of two special-education students, including J.B., who alleged that Nash sexually assaulted him in a school bathroom. Nash testified that J.B. was accompanied throughout the school day by an aide, but the school principal testified in rebuttal that J.B. was not assigned a personal aide, seriously undermining Nash's credibility and his opportunity-based defense. After trial, sworn statements and later testimony from school personnel established that a classroom aide had been instructed to monitor and accompany J.B. throughout the day, including monitoring his bathroom trips. The Supreme Court concluded that this evidence probably would have changed the verdict and also affected Nash's credibility concerning the separate charge involving K.L.

PROCEDURAL HISTORY

After a 2002 jury trial, Nash was convicted of offenses involving J.B. and K.L. and received an aggregate twenty-two-year prison sentence. The trial court denied successive new-trial motions and, in 2007, denied Nash's PCR petition without an evidentiary hearing. The Appellate Division initially remanded for an evidentiary hearing, and after that hearing the PCR court again denied relief; the Appellate Division affirmed the denial of relief on the ineffective-assistance and prosecutorial-misconduct claims but did not address the newly discovered evidence claim. The Supreme Court granted certification, held that the newly discovered evidence satisfied the governing three-prong test, and reversed and remanded for a new trial on all charges.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Appellate Division's judgment and remand to the trial court for a new trial on all charges, including the charges involving J.B. and K.L., consistent with the opinion.

CASES CITED

- State v. McQuaid, 147 N.J. 464, 482, 688 A.2d 584 (1997)
- State v. Feaster, 184 N.J. 235, 249, 877 A.2d 229 (2005)
- State v. Hess, 207 N.J. 123, 144-45, 23 A.3d 373 (2011)
- State v. Harris, 181 N.J. 391, 415-16, 859 A.2d 364 (2004)
- State v. Elders, 192 N.J. 224, 244, 927 A.2d 1250 (2007)
- State v. Johnson, 42 N.J. 146, 161, 199 A.2d 809 (1964)
- State v. Locurto, 157 N.J. 463, 474, 724 A.2d 234 (1999)
- State v. Ways, 180 N.J. 171, 187-93, 197, 850 A.2d 440 (2004)
- State v. Preciose, 129 N.J. 451, 459, 609 A.2d 1280 (1992)
- Strickland v. Washington, 466 U.S. 668, 684-90 (1984)
- State v. Fritz, 105 N.J. 42, 52, 58, 519 A.2d 336 (1987)
- State v. Chew, 179 N.J. 186, 217, 844 A.2d 487 (2004)
- State v. Echols, 199 N.J. 344, 358, 972 A.2d 1091 (2009)

- State v. Castagna, 187 N.J. 293, 314, 901 A.2d 363 (2006)
- State v. Morton, 155 N.J. 383, 413, 715 A.2d 228 (1998)
- Strickler v. Greene, 527 U.S. 263, 280 (1999)
- United States v. Bagley, 473 U.S. 667, 676 (1985)
- State v. Nelson, 155 N.J. 487, 497-98, 715 A.2d 281 (1998)
- Brady v. Maryland, 373 U.S. 83, 87 (1963)
- State v. Mitchell, 126 N.J. 565, 587, 601 A.2d 198 (1992)
- State v. Laurick, 120 N.J. 1, 10, 13, 575 A.2d 1340 (1990)
- State v. Franklin, 184 N.J. 516, 528, 878 A.2d 757 (2005)
- State v. Frisby, 174 N.J. 583, 596, 811 A.2d 414 (2002)
- Commonwealth v. Moran, 439 Mass. 482, 789 N.E.2d 121, 127 (2003)