

SUPREME COURT OF NEVADA

Willie Sampson v. The State of Nevada, 121 Nev. 820

122 P.3d 1255 (2005) · No. No. 41627 · Decided December 1, 2005

SUMMARY

The Supreme Court of Nevada affirmed Willie Sampson's convictions and multiple life sentences for kidnapping and sexual offenses involving a minor. The court held that the trial court did not abuse its discretion by excluding a late-disclosed expert witness, and it adopted the rule that evidence of a defendant's refusal to consent to a warrantless search may constitute error but is harmless when it is merely a passing reference. The court also held that unsolicited testimony concerning Sampson's invocation of his rights to remain silent and to counsel was harmless.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Rose, J.; Becker, C.J.; Parraguiré, J.
JURISDICTION	Nevada
DECIDED	December 1, 2005
DOCKET	No. 41627
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a criminal judgment of conviction following a jury trial and sentencing to multiple life sentences.
STANDARD OF REVIEW	The admissibility of expert testimony is reviewed for clear abuse of discretion. The unpreserved Fourth Amendment issue was reviewed for plain error affecting substantial rights. The denial of a mistrial based on the reference to Sampson's Fifth Amendment rights was reviewed under harmless-error principles.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.
PARTIES	Willie Sampson v. The State of Nevada

TOPICS

- criminal procedure
- fourth amendment
- fifth amendment
- suppression of evidence
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by excluding a defense expert disclosed on the eighth day of trial to testify about the victim's alleged Oppositional Defiant Disorder.
2. Whether the State's presentation of testimony concerning Sampson's refusal to consent to a warrantless search violated the Fourth Amendment and required reversal.
3. Whether testimony that Sampson had invoked his rights to remain silent and to counsel required a mistrial or reversal under the Fifth Amendment.

HOLDINGS

1. The district court did not abuse its discretion by excluding Dr. Racoma's testimony because the defense had access to the school records before trial, could have presented the diagnosis through other evidence, and the late disclosure would have unfairly surprised the State.
2. A district court errs when it allows evidence or testimony concerning a defendant's refusal to consent to a warrantless search to support an inference of guilt, but the error is subject to harmless-error analysis.
3. The officers' testimony concerning Sampson's refusal to consent was a mere passing reference and, although the district court erred in allowing it, the error was harmless and did not require reversal.
4. The detective's brief, unsolicited reference to Sampson's request for an attorney and refusal to speak with officers was error but was harmless and did not require a mistrial or reversal.

KEY QUOTATIONS

"Today we adopt this test for comments on a defendant's exercise of Fourth Amendment rights." (122 P.3d at 1261)

"Thus, where there is only a mere passing reference, without more, to an accused's invocation of Fourth Amendment rights, there is harmless error." (122 P.3d at 1261)

"Thus, the context of his statement was not designed to draw a meaning from silence and amounted to harmless error." (122 P.3d at 1262)

FACTUAL BACKGROUND

The victim, a minor boy, testified that Sampson drove him to McDonald's and then to Sampson's residence, where Sampson threatened him with a gun and sexually assaulted him. The victim escaped after Sampson tied him to a chair and left for a store; police later found related physical items in Sampson's home. Sampson denied sexually touching the victim and disputed material portions of the victim's account. During trial, Sampson sought to introduce school records and a late-disclosed expert concerning the victim's alleged diagnosis of Oppositional Defiant Disorder, while officers testified that Sampson refused consent to a residential search and had requested an attorney.

PROCEDURAL HISTORY

A jury convicted Sampson of first-degree kidnapping, two counts of lewdness with a minor under fourteen, attempted sexual assault on a minor under fourteen, and sexual assault on a minor under fourteen. Sampson also pleaded guilty to possession of a firearm by an ex-felon and received multiple life sentences. He appealed, challenging the exclusion of a late-disclosed expert, testimony concerning his refusal to consent to a warrantless search, and testimony concerning his invocation of his rights to remain silent and to counsel. The Supreme Court of Nevada affirmed the judgment of conviction.

DISPOSITION

affirmed

CASES CITED

- Brown v. State, 110 Nev. 846, 852, 877 P.2d 1071, 1075 (1994)
- Smith v. State, 100 Nev. 570, 572, 688 P.2d 326, 327 (1984)
- Reese v. State, 54 Md. App. 281, 458 A.2d 492, 496-97 (Ct. Spec. App. 1983)
- Farris v. State, 818 N.E.2d 63, 69 (Ind. Ct. App. 2004)
- United States v. Shay, 57 F.3d 126, 134 (1st Cir. 1995)
- United States v. Runyan, 290 F.3d 223, 249 (5th Cir. 2002)
- United States v. Moreno, 233 F.3d 937, 940-41 (7th Cir. 2000)
- United States v. Dozal, 173 F.3d 787, 794 (10th Cir. 1999)
- United States v. Thame, 846 F.2d 200, 205-08 (3d Cir. 1988)
- United States v. Prescott, 581 F.2d 1343, 1351-53 (9th Cir. 1978)
- Padgett v. State, 590 P.2d 432, 434 (Alaska 1979)
- Mackey v. State, 234 Ga. App. 554, 507 S.E.2d 482, 484 (1998)
- Morris v. State, 112 Nev. 260, 264, 913 P.2d 1264, 1267-68 (1996)
- Knight v. State, 116 Nev. 140, 144-45, 993 P.2d 67, 71 (2000)
- Harkness v. State, 107 Nev. 800, 803, 820 P.2d 759, 761 (1991)
- Washington v. State, 112 Nev. 1054, 1060, 921 P.2d 1253, 1257 (1996)

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