

COURT OF APPEALS OF MARYLAND

Cole v. State, 378 Md. 42

835 A.2d 600 (2003) · No. No. 5, Sept. Term, 2003 · Decided November 12, 2003

SUMMARY

The Court of Appeals of Maryland held that the State was required under Maryland Rule 4-263(b)(4) to disclose relevant standard operating procedures, calibration records, and proficiency-testing records concerning drug-analysis testing. The trial court improperly denied discovery and excluded the defendant’s expert testimony for lacking a sufficient factual basis caused by the withheld information. The court held that the error was not harmless, reversed the convictions, and remanded for a new trial.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Harrell, J.; Bell, C.J.; Eldridge, J.; Raker, J.; Wilner, J.; Cathell, J.; Battaglia, J.
JURISDICTION	Maryland
DECIDED	November 12, 2003
DOCKET	No. 5, Sept. Term, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cole sought review of convictions for possession of cocaine and possession of cocaine with intent to distribute after the Court of Special Appeals affirmed the judgments in an unreported divided opinion.
STANDARD OF REVIEW	Discovery rulings are reviewed for abuse of discretion; factual findings are reviewed for clear error; interpretation and application of the Maryland Rules present questions of law reviewed de novo. A discovery violation requires reversal unless the court can declare beyond a reasonable doubt that the error did not influence the verdict.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Rico Duvall Cole v. State of Maryland

TOPICS

- discovery criminal
- criminal procedure
- expert testimony
- evidence
- authentication

PRACTICE AREAS

criminal procedure

criminal discovery

evidence

expert testimony

QUESTIONS PRESENTED

1. Whether Maryland Rule 4-263 required the State to disclose, upon request, laboratory standard operating procedures relevant to cocaine testing, calibration records for the equipment used in Cole's case, and proficiency-testing records for the chemist who performed the testing.
2. Whether the trial court abused its discretion by denying Cole access to that discovery and excluding his defense expert for lack of a sufficient factual basis.
3. Whether the discovery violation and exclusion of the expert's testimony were harmless beyond a reasonable doubt.

HOLDINGS

1. Maryland Rule 4-263(b)(4) requires the State, upon request, to disclose written standard operating procedures relevant to the State's drug testing, calibration records for the equipment used to analyze the substances in the defendant's case, and the testing chemist's proficiency records relating to the equipment and procedures used.
2. In a criminal discovery dispute, requested information is relevant when it is reasonably calculated to lead to the discovery of admissible evidence, subject to balancing against privacy, confidentiality, privilege, burden, or other conflicting interests; the defendant need not first prove that the State's test was inaccurate or that its procedures were faulty.
3. The State's failure to disclose the relevant laboratory materials violated Rule 4-263, the trial court abused its discretion in limiting discovery and excluding Cole's expert, and the error was not harmless beyond a reasonable doubt.

KEY QUOTATIONS

"We conclude that Rule 4-263(b)(4) extends to written standard operating procedures intended to be employed by a State's drug analysis expert or lab when those procedures are relevant to a given case." (609)

"The test for relevance, and the standard we employed in Zaal, is a balancing test where the court weighs the potential probative value of the information or documents sought against the potential burden on the State in production." (613)

"In any case where the nature of an asserted CDS is in dispute, the State must demonstrate that its chemical analysis was accurate." (614)

FACTUAL BACKGROUND

Police executing a search warrant seized forty-six baggies of suspected crack cocaine, money, documents, and two handguns from an apartment where Cole was arrested. A Prince George's County police chemist tested the substances using infrared spectrophotometry and gas chromatography/mass spectrometry and testified that the substances were cocaine. Cole sought laboratory procedures, calibration records, and the chemist's proficiency-

testing records, but the trial court compelled production only of case-specific bench notes and the analyst's file. The court then excluded Cole's expert, James Slunt, because his knowledge of the laboratory's quality-control procedures was incomplete, although that incompleteness resulted from the withheld discovery.

PROCEDURAL HISTORY

The Circuit Court for Prince George's County denied most of Cole's motion to compel discovery concerning the State drug laboratory, excluded the testimony of Cole's proposed expert chemist for lack of a sufficient factual basis, and entered convictions and sentence. The Court of Special Appeals affirmed. The Court of Appeals granted certiorari, reversed, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment was reversed, and the case was remanded to the Court of Special Appeals with directions to reverse the Circuit Court judgments and remand to the Circuit Court for Prince George's County for a new trial.

CASES CITED

- North River Ins. Co. v. Mayor & City Council of Baltimore, 343 Md. 34, 680 A.2d 480 (1996)
- Williams v. State, 364 Md. 160, 771 A.2d 1082 (2001)
- Collins v. State, 373 Md. 130, 816 A.2d 919 (2003)
- Fisher v. State, 367 Md. 218, 786 A.2d 706 (2001)
- Tharp v. State, 362 Md. 77, 763 A.2d 151 (2000)
- Mayson v. State, 238 Md. 283, 208 A.2d 599 (1965)
- Commonwealth v. Brosnick, 530 Pa. 158, 607 A.2d 725 (1992)
- State v. Schwartz, 447 N.W.2d 422 (Minn. 1989)
- McIlwain v. State, 700 So. 2d 586 (Miss. 1997)
- State v. Mehl, 602 So. 2d 1383 (Fla. Dist. Ct. App. 1992)
- Smith v. State, 371 Md. 496, 810 A.2d 449 (2002)
- Zaal v. State, 326 Md. 54, 602 A.2d 1247 (1992)
- Robinson v. State, 354 Md. 287, 730 A.2d 181 (1999)
- Goldsmith v. State, 337 Md. 112, 651 A.2d 866 (1995)
- Thomas v. State, 372 Md. 342, 812 A.2d 1050 (2002)
- Harris v. State, 331 Md. 137, 626 A.2d 946 (1993)
- Reed v. State, 283 Md. 374, 391 A.2d 364 (1978)
- Frye v. United States, 293 F. 1013 (D.C. Cir. 1923)
- Crown Oil & Wax Co. of Del., Inc. v. Glen Constr. Co. of Va., Inc., 320 Md. 546, 578 A.2d 1184 (1990)
- Patrick v. State, 329 Md. 24, 617 A.2d 215 (1992)

- Warrick v. State, 302 Md. 162, 486 A.2d 189 (1985)
- U.S. v. Bagley, 473 U.S. 667, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985)
- Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963)

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