

SUPREME COURT OF THE STATE OF MONTANA

State v. Slavin

320 Mont. 425, 2004 MT 76 (2004) · No. No. 01-908 · Decided March 30, 2004

SUMMARY

The Montana Supreme Court affirmed Lenorse Slavin’s convictions for felony kidnapping and misdemeanor assault. The court held that any error in quashing subpoenas for a newspaper reporter and editor under Montana’s reporter shield statute was harmless, and that the district court did not abuse its discretion by limiting the testimony of Slavin’s expert regarding the victim’s medical history and prior conduct.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Justice Jim Rice; Jim Rice; James C. Nelson; W. William Leaphart; Patricia O. Cotter; Jim Regnier                                                                                                                                                     |
| JURISDICTION          | Montana                                                                                                                                                                                                                                               |
| DECIDED               | March 30, 2004                                                                                                                                                                                                                                        |
| DOCKET                | No. 01-908                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Slavin appealed his convictions from the District Court of the Eighteenth Judicial District, Gallatin County, challenging the quashing of subpoenas directed to a newspaper reporter and editor and the limitation of his defense expert's testimony. |
| STANDARD OF REVIEW    | The court reviewed the exclusion of the reporters' testimony for harmless error under the trial-error framework and reviewed the limitation of expert testimony for abuse of discretion.                                                              |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                        |
| PARTIES               | Lenorse Slavin v. State of Montana                                                                                                                                                                                                                    |

TOPICS

- criminal procedure
- evidence
- hearsay
- appellate procedure
- harmless error

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the District Court properly quashed subpoenas requiring a newspaper reporter and editor to testify at trial under Montana's reporter shield statute.
2. Whether the District Court abused its discretion by limiting the testimony of Slavin's expert witness regarding Merryfield's prior conduct and the materials reviewed by the expert.

## HOLDINGS

1. Any error in excluding the reporters' testimony was harmless because there was no reasonable possibility that the exclusion contributed to Slavin's conviction.
2. The District Court did not abuse its discretion by allowing general testimony about Merryfield's disorder, medication, alcohol effects, and the expert's review of records while permitting specific testimony about only two prior incidents involving untruthful statements.

## KEY QUOTATIONS

*“Thus, any error manifested itself in the trial process and can be “qualitatively . . . weighed against the admissible evidence introduced at trial.””* (¶ 20)

*“We conclude that there was no reasonable possibility that any error in excluding their testimony contributed to Slavin’s conviction, and affirm the District Court.”* (¶ 26)

*“We conclude that in limiting Dr. Bach’s testimony, the District Court did not abuse its discretion.”* (¶ 33)

## FACTUAL BACKGROUND

Slavin was the live-in caregiver and intimate partner of Marion Merryfield, who suffered from seizure and lung disorders and took medications that could affect her behavior. After an altercation, Slavin allegedly returned to Merryfield's home with a firearm, threatened to kill her, confined her, and prevented her from leaving for approximately four hours. Merryfield later gave inconsistent accounts of the incident, including statements to a newspaper reporter and editor suggesting that the incident had not occurred as police described it. Slavin sought to subpoena the reporters and to have an expert testify specifically about several prior incidents involving Merryfield, but the District Court restricted both forms of evidence.

## PROCEDURAL HISTORY

Slavin was charged with felony kidnapping and felony assault with a weapon. A jury found him guilty of kidnapping and the lesser offense of misdemeanor assault. Before trial, the District Court quashed subpoenas for a newspaper reporter and editor under Montana's reporter shield statute and limited the specific prior-incident testimony of Slavin's expert witness. The Montana Supreme Court affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- State v. Van Kirk, 2001 MT 184, 306 Mont. 215, 32 P.3d 735
- State v. Flowers, 2004 MT 37, 320 Mont. 49
- Benjamin v. Torgerson, 1999 MT 216, 295 Mont. 528, 985 P.2d 734
- State v. Matt (1991), 249 Mont. 136, 814 P.2d 52
- State v. Bingman, 2002 MT 350, 313 Mont. 376, 61 P.3d 153

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