

SUPREME COURT OF NEW MEXICO

State v. Balderama

2004-NMSC-008, 135 N.M. 329 (2004) · No. No. 27,225 · Decided March 1, 2004

SUMMARY

The Supreme Court of New Mexico reviewed Valente Balderama's conviction for first-degree deliberate-intent murder. It held that expert neuropsychological testimony concerning neurological deficits, impulsivity, and difficulty planning was relevant to whether Balderama formed deliberate intent, even though it did not establish an inability to deliberate. The court also upheld admission of the victim's statement as an excited utterance but directed the trial court on retrial to consider whether it constituted inadmissible character evidence, and it remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Edward L. Chávez; Pamela B. Minzner; Richard C. Bosson; Petra Jimenez Maes; Patricio M. Serna
JURISDICTION	New Mexico
DECIDED	March 1, 2004
DOCKET	No. 27,225
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his conviction for first-degree deliberate-intent murder after the district court excluded defense expert testimony concerning his neurological deficits and admitted a victim's hearsay statement. The Supreme Court granted rehearing, withdrew its earlier opinion, substituted this opinion, and reversed and remanded for a new trial.
STANDARD OF REVIEW	Evidentiary rulings concerning relevance, Rule 11-403 exclusion, and hearsay admission are reviewed for abuse of discretion. Preservation was reviewed under Rules 11-103(A) and 12-216(A).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Valente Balderama v. State of New Mexico

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by sua sponte excluding expert testimony concerning Balderama's neurological deficits, impulsiveness, and difficulty planning as relevant to whether he actually formed the deliberate intent required for first-degree murder.
2. Whether the trial court abused its discretion by admitting the victim's out-of-court statement as an excited utterance.
3. Whether the victim's statement was inadmissible character evidence under Rules 11-404(B) and 11-403.

HOLDINGS

1. The challenge was preserved because the substance and purpose of the proposed testimony were made known or were apparent to the trial court, the ruling affected a substantial right, and a formal exception was unnecessary.
2. Expert testimony about a defendant's neurological condition, impulsiveness, and difficulty planning is relevant and admissible to assist the jury in determining whether the defendant actually formed the deliberate intent required for first-degree murder, even when the evidence does not establish an inability to form deliberate intent and therefore does not support a diminished-capacity instruction.
3. The exclusion of Dr. Caplan's testimony was not harmless because there was a reasonable possibility that the testimony could have affected the jury's choice between first- and second-degree murder.
4. The trial court did not abuse its discretion by admitting the victim's statement that Balderama had held her for three days and prevented her from using the telephone as an excited utterance.
5. The trial court must determine on retrial whether the victim's statement is inadmissible character evidence under Rules 11-404(B) and 11-403.

KEY QUOTATIONS

“When a trial judge, however, feels compelled to exclude evidence sua sponte, the parties should first be informed of the judge's specific concerns.” (¶ 20)

“Thus, we conclude that evidence of the condition of the mind of the accused at the time of the crime may be introduced, not only for the purpose of proving the inability to deliberate, but also to prove that the conditions were such that Defendant did not in fact, at the time of the killing, form a deliberate intent to kill.” (¶ 31)

“Without any advance notice of the court's contemplated action, Defendant was entitled to rely on judicial rulings and discussions in planning his defense strategy and in summarizing that strategy to the jury.” (¶ 44)

FACTUAL BACKGROUND

The victim was beaten and killed outside Deming, New Mexico, and her body was concealed in mesquite brush. Balderama admitted striking the victim with a steel pipe but denied forming the deliberate intent required for first-degree murder, claiming that he acted during a rash impulse and had neurological deficits affecting planning and impulse control. The defense offered neuropsychologist Dr. Marc Caplan as its sole witness on deliberation, but the trial court excluded his testimony sua sponte after hearing an offer of proof. The State's case also included a statement by the victim that Balderama had held her for three days and prevented her from using a telephone.

PROCEDURAL HISTORY

Balderama was convicted of first-degree deliberate-intent murder in the district court. During trial, the court sua sponte excluded the testimony of his only defense witness, a neuropsychologist, and admitted a hearsay statement by the victim. The Supreme Court reviewed both evidentiary rulings, held that exclusion of the expert testimony was reversible error, upheld admission of the statement as an excited utterance, and remanded for a new trial with further consideration of the statement's character-evidence implications.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for a new trial. On remand, the trial court must reconsider whether the victim's statement is inadmissible character evidence under Rules 11-404(B) and 11-403. If Dr. Caplan's testimony is otherwise admissible, the court may use a limiting instruction explaining that the testimony may be considered only in determining whether Balderama actually formed deliberate intent, not whether he was incapable of forming it.

CASES CITED

- Bays v. Albuquerque Nat'l Bank, 34 N.M. 20, 275 P. 769 (1929)
- Chapman v. California, 386 U.S. 18, 23 n.8 (1967)
- State v. Garcia, 46 N.M. 302, 128 P.2d 459 (1942)
- State v. Stanley, 2001-NMSC-037, 131 N.M. 368, 37 P.3d 85
- State v. Melendez, 97 N.M. 740, 643 P.2d 609 (Ct. App. 1981), rev'd on other grounds, 97 N.M. 738, 643 P.2d 607 (1982)
- State v. Debarry, 86 N.M. 742, 527 P.2d 505 (Ct. App. 1974)
- State v. Coffin, 1999-NMSC-038, 128 N.M. 192, 991 P.2d 477
- State v. Smith, 26 N.M. 482, 194 P. 869 (1921)
- State v. Campos, 1996-NMSC-043, 122 N.M. 148, 921 P.2d 1266
- State v. Ellis, 89 N.M. 194, 548 P.2d 1212 (Ct. App. 1976)
- State v. Elliot, 96 N.M. 798, 635 P.2d 1001 (Ct. App. 1981)
- State v. Smith, 80 N.M. 126, 452 P.2d 195 (Ct. App. 1969)
- State v. Lujan, 94 N.M. 232, 608 P.2d 1114 (1980)

- State v. Begay, 1998-NMSC-029, 125 N.M. 541, 964 P.2d 102
- Clark v. State, 112 N.M. 485, 816 P.2d 1107 (1991)
- State v. Glasgow, 2000-NMCA-076, 129 N.M. 480, 10 P.3d 159
- March v. State, 105 N.M. 453, 734 P.2d 231 (1987)
- State v. Lopez, 2000-NMSC-003, 128 N.M. 410, 993 P.2d 727
- State v. Bonham, 1998-NMCA-178, 126 N.M. 382, 970 P.2d 154
- State v. Traeger, 2001-NMSC-022, 130 N.M. 618, 29 P.3d 518
- State v. Niewiadowski, 120 N.M. 361, 901 P.2d 779 (Ct. App. 1995)