

SUPREME COURT OF NEVADA

Chapman v. State, 117 Nev. 1

16 P.3d 432 (2001) · No. No. 34144 · Decided January 29, 2001

SUMMARY

The Supreme Court of Nevada affirmed Melvin Chapman's convictions for sexual assault of a minor and lewdness with a child. The court rejected his challenges to the denial of an independent psychological examination of the victim, the exclusion of evidence concerning the victim's sexual knowledge, and the State's alleged Brady violation involving lost answering-machine tapes. The court concluded that Chapman had not shown an abuse of discretion, that the excluded evidence was insufficiently specific or probative, and that no Brady violation or prejudicial loss of evidence occurred.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Agosti, J.; Young, J.; Leavitt, J.
JURISDICTION	Nevada
DECIDED	January 29, 2001
DOCKET	No. 34144
DISPOSITION	affirmed
PROCEDURAL POSTURE	Chapman appealed his jury convictions for three counts of sexual assault of a minor under sixteen and fifteen counts of lewdness with a child under fourteen, challenging the denial of an independent psychological examination, the exclusion of evidence concerning the victim's sources of sexual knowledge, and the refusal to dismiss the charges based on alleged Brady violations.
STANDARD OF REVIEW	Denial of a request for an independent psychological examination of a child victim is reviewed for abuse of discretion. Evidentiary rulings are reviewed under the applicable evidentiary standard, and the court applied the trial court's balancing of probative value against prejudicial effect. The alleged Brady and evidence-preservation issues were reviewed for legal sufficiency and prejudice.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.

TOPICS

criminal procedure

evidence

expert testimony

appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying Chapman's request for an independent psychological examination of the child victim.
2. Whether the district court improperly excluded evidence of independent sources of the victim's knowledge of sexual activities and male anatomy.
3. Whether the State's failure to preserve or disclose answering-machine tapes violated Brady and required dismissal of the charges.

HOLDINGS

1. A district court may deny a defendant's request for an independent psychological examination of a child victim when the defendant fails to demonstrate a compelling reason for the examination, applying the relevant Keeney factors as clarified by Koerschner. Because the State did not rely on a qualifying expert, the alleged evidence had corroboration, and the asserted parental hostility did not provide a sufficient basis to question the victim's veracity, denial of the examination was not an abuse of discretion.
2. Evidence of a child victim's prior sexual experiences or knowledge may be admitted to counter the inference that the child could not describe a sexual assault without having experienced it, but only when the evidence is sufficiently specific and indicative of an ability to contrive the accusation. The evidence offered by Chapman did not satisfy that standard and was properly excluded.
3. The State's failure to preserve or disclose answering-machine tapes did not constitute a Brady violation because the State never possessed the tapes. Dismissal was also unwarranted because Chapman failed to show materiality, bad faith, or prejudice, and the tapes would at most have supported an alternative fabrication theory rather than directly exculpating him.

KEY QUOTATIONS

"Finally, we held that the first, third and fourth Keeney factors were to be weighed but not necessarily given equal weight in the analysis." (434)

"Because the State never had possession of the tapes, there was no Brady violation." (435)

FACTUAL BACKGROUND

Chapman was convicted of sexually assaulting and committing lewdness with the young daughter of his live-in girlfriend. The State presented testimony from the child victim, her mother, her younger brother, and a clinical forensic interviewer. Chapman sought an independent psychological examination of the victim and sought to introduce evidence that the victim had independent sources of knowledge about sexual activity and male anatomy. He also sought dismissal based on the State's failure to preserve tapes from the victim's mother's answering machine.

PROCEDURAL HISTORY

A jury convicted Chapman of three counts of sexual assault with a minor under sixteen and fifteen counts of lewdness with a child under fourteen. The district court denied his request for an independent psychological examination of the child victim, excluded evidence concerning the victim's alleged prior sexual knowledge, and declined to dismiss the charges based on the State's failure to preserve or disclose answering-machine tapes. The Supreme Court of Nevada affirmed.

DISPOSITION

affirmed

CASES CITED

- Keeney v. State, 109 Nev. 220, 226, 850 P.2d 311, 315 (1993)
- Koerschner v. State, 116 Nev. ___, 13 P.3d 451 (2000)
- Washington v. State, 96 Nev. 305, 307, 608 P.2d 1101, 1102 (1980)
- Griego v. State, 111 Nev. 444, 450-51, 893 P.2d 995, 999-1000 (1995)
- Marvelle v. State, 114 Nev. 921, 930, 966 P.2d 151, 156 (1998)
- Summitt v. State, 101 Nev. 159, 163-64, 697 P.2d 1374, 1377 (1985)
- State v. Howard, 121 N.H. 53, 426 A.2d 457, 462 (1981)
- Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)
- Strickler v. Greene, 527 U.S. 263, 281-82, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999)
- Daniels v. State, 114 Nev. 261, 267, 956 P.2d 111, 115 (1998)
- Howard v. State, 95 Nev. 580, 582, 600 P.2d 214, 215-16 (1979)
- Orfield v. State, 105 Nev. 107, 109, 771 P.2d 148, 149 (1989)

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