

SUPREME COURT OF GEORGIA

Neuman v. The State

297 Ga. 501 (2015) · No. S15A0011 · Decided June 15, 2015

SUMMARY

The Georgia Supreme Court held that communications between the defendant, defense counsel, and non-testifying psychological consultants engaged to evaluate an insanity defense were protected by the attorney-client privilege. The trial court's disclosure of the consultants' records to the State and admission of related evidence was not harmless, requiring reversal of the convictions. The court also held that privileged statements from the defendant's wife's individual counseling sessions were properly excluded.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Justice
JURISDICTION	Georgia
DECIDED	June 15, 2015
DOCKET	S15A0011
DISPOSITION	reversed
PROCEDURAL POSTURE	After being convicted of malice murder and possession of a firearm during the commission of a felony, and found guilty but mentally ill on the murder count, Neuman appealed the denial of his motion for new trial, challenging evidentiary rulings.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed under whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. Evidentiary privilege and admissibility rulings are reviewed under the applicable legal standards, with preserved nonconstitutional error subject to harmless-error analysis.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Hemy Neuman v. The State

TOPICS

attorney client privilege

privilege

evidence

criminal procedure

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PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Neuman's murder and firearm-possession convictions and the jury's rejection of his insanity defense.
2. Whether communications and records generated by psychologists consulted by defense counsel to evaluate a potential insanity defense were protected by the attorney-client privilege.
3. Whether raising an insanity defense waived the attorney-client privilege as to communications with non-testifying defense consultants.
4. Whether the trial court's disclosure of the consultants' notes and records and admission of related testimony was harmless.
5. Whether statements made by Neuman's wife during her individual psychotherapy sessions were protected by the psychotherapist-patient privilege and properly excluded.

HOLDINGS

1. The evidence was sufficient to authorize a rational trier of fact to find Neuman guilty beyond a reasonable doubt, and the jury was authorized to reject his insanity defense.
2. The attorney-client privilege applies to confidential communications related to legal advice between defense counsel, the client, defense agents, and an expert engaged by counsel to assist in the client's representation, when the expert will neither testify at trial nor provide a basis for the formulation of other experts' trial testimony.
3. Raising an insanity defense does not effect a blanket waiver of the attorney-client privilege for confidential communications with non-testifying defense consultants, and the privilege was not waived merely because Neuman called the consultants after the trial court ordered disclosure of their records.
4. The erroneous disclosure of the consultants' notes and records and admission of related testimony was not harmless and required reversal.
5. Statements made by Neuman's wife during her individual counseling sessions were protected by the patient-therapist privilege because she, rather than Neuman, held the privilege and had not waived it as to those individual sessions.

KEY QUOTATIONS

“the attorney-client privilege applies to confidential communications, related to the matters on which legal advice is being sought, between the attorneys, their agents, or their client, and an expert engaged by the attorney to aid in the client’s representation; the privilege is not waived if the expert will neither serve as a witness at trial nor provide any basis for the formulation of other experts’ trial testimony.” (at 506-507)

“the attorney-client privilege is vital in cases such as this one where the defendant’s sanity is at issue because the privilege allows the attorneys to consult with the non-testifying expert in order to familiarize themselves

with central medical concepts, assess the soundness and advantages of an insanity defense, evaluate potential specialists, and probe adverse testimony.” (at 514-515)

FACTUAL BACKGROUND

Neuman admitted planning and carrying out the shooting death of Russell Sneiderman, including obtaining a gun and disguise, renting a car, shooting Sneiderman, disposing of evidence, and lying to police. He asserted that mental illness rendered him unable to distinguish right from wrong. Defense counsel consulted psychologists regarding whether an insanity defense was viable, but those consultants were not initially retained as trial witnesses and their records were later disclosed to the State.

PROCEDURAL HISTORY

A DeKalb County grand jury indicted Neuman for malice murder and possession of a firearm during the commission of a felony. Following a jury trial, he was sentenced to life without parole for murder and five consecutive years for firearm possession. The trial court denied his amended motion for new trial, and the Supreme Court of Georgia reversed because privileged defense-consultant materials were disclosed to the State and the resulting error was not harmless.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The conviction was reversed for further proceedings consistent with the opinion, including retrial.

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Choynet v. State, 295 Ga. 568 (1) (761 SE2d 322) (2014)
- Durrence v. State, 287 Ga. 213 (1) (b) (695 SE2d 227) (2010)
- Upjohn Co. v. United States, 449 U.S. 383, 389 (1981)
- Fire Assn. of Philadelphia v. Fleming, 78 Ga. 733 (3) (3 SE 420) (1887)
- Davis v. State, 285 Ga. 343, 347, 350 (676 SE2d 215) (2009)
- Taylor v. Taylor, 179 Ga. 691, 692-693 (177 SE 582) (1934)
- United States v. Alvarez, 519 F2d 1036, 1045-1047 (3d Cir. 1975)
- People v. Knuckles, 650 NE2d 974, 980-981 (II) (Ill. 1995)
- State v. Hitopoulus, 309 SE2d 747 (S.C. 1983)
- Houston v. State, 602 P2d 784, 789-792 (Alaska 1979)
- State v. Pratt, 398 A2d 421, 424-426 (Md. 1979)
- People v. Hilliker, 185 NW2d 831, 833-834 (Mich. Ct. App. 1971)
- Weakley v. State, 259 Ga. 205 (2) (378 SE2d 688) (1989)

- Harley-Davidson Motor Co. v. Daniel, 244 Ga. 284 (2) (260 SE2d 20) (1979)
- State v. Herendeen, 279 Ga. 323, 327 (613 SE2d 647) (2005)
- Rogers v. State, 282 Ga. 659 (6) (b) (653 SE2d 31) (2007)
- Cooksey v. Landry, 295 Ga. 430 (2) (761 SE2d 61) (2014)

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