

DISTRICT OF COLUMBIA COURT OF APPEALS

In re D.W.

27 A.3d 1164 (D.C. 2011) · Decided September 1, 2011

SUMMARY

The District of Columbia Court of Appeals affirmed D.W.'s juvenile delinquency adjudication for incest. The court held that uncontradicted testimonial and circumstantial evidence was sufficient to establish beyond a reasonable doubt that D.W. and the victim were half-siblings within the statutory degree of consanguinity, and that genetic testing was not required.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Schwelb, Senior Judge; Glickman; Schwelb; Thompson
JURISDICTION	District of Columbia
DECIDED	September 1, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	D.W. appealed an adjudication of delinquency for incest following an evidentiary hearing, challenging the sufficiency of the evidence establishing that he and the victim were related within the fourth degree of consanguinity.
STANDARD OF REVIEW	The evidence is viewed in the light most favorable to the government, with deference to the factfinder's credibility determinations and reasonable inferences. Reversal is warranted only when no evidence permits a reasonable factfinder to infer guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	published appellate opinion; precedential
PARTIES	D.W. v. District of Columbia

TOPICS

- evidence
- criminal procedure
- burden of proof
- statutory interpretation

PRACTICE AREAS

- juvenile delinquency
- criminal law
- evidence
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to prove beyond a reasonable doubt that D.W. and D.S. were related within the fourth degree of consanguinity under the District of Columbia incest statute.
2. Whether scientific or genetic testing was required to establish the parties' biological relationship in a juvenile incest proceeding.

HOLDINGS

1. The uncontradicted testimony identifying D.W. and D.S. as the children of the same father was sufficient to support the finding beyond a reasonable doubt that they were half-siblings and therefore related within the fourth degree of consanguinity.
2. Genetic testing is not required in every incest prosecution or delinquency proceeding; testimonial or circumstantial evidence may establish consanguinity beyond a reasonable doubt.

KEY QUOTATIONS

“In assessing D.W.’s claim of evidentiary insufficiency, “this court must view the evidence in the light most favorable to the government, keeping in mind the right of the trier of fact to assess credibility and to draw reasonable inferences from the evidence.”” (27 A.3d at 1167)

“Because a family member is competent to testify concerning whether a particular person is his or her relative, it is necessarily the function of the trier of fact to assess each witness’ credibility and to determine whether the witness has knowledge of the relevant facts.” (27 A.3d at 1171)

FACTUAL BACKGROUND

D.W., age fourteen, had sexual intercourse with D.S., age eleven, and D.S. later gave birth to a child. Multiple witnesses testified that D.W. and D.S. shared the same father, Donald Berry, making them half-siblings; their grandfather also testified that they were both his grandchildren. Although Berry expressed uncertainty because he had not undergone a blood test, he identified both children as his, and the defense offered no evidence contradicting the testimony concerning their relationship.

PROCEDURAL HISTORY

After a juvenile evidentiary hearing, the trial judge denied D.W.'s motion for judgment of acquittal on the incest charge and adjudicated him guilty. The judge later found him not guilty of first-degree sexual abuse and placed him on supervised probation for one year on the incest count. D.W. timely appealed.

DISPOSITION

affirmed

CASES CITED

- Long v. United States, 940 A.2d 87, 99 (D.C. 2007)
- Rivas v. United States, 783 A.2d 125, 133-34 (D.C. 2001) (en banc)

- In re T.M., 577 A.2d 1149, 1151 (D.C. 1990)
- Blaize v. United States, 21 A.3d 78, 82 (D.C. 2011)
- Kaliku v. United States, 994 A.2d 765, 786 (D.C. 2010)
- Combs v. District of Columbia Dep't of Employment Servs., 983 A.2d 1004, 1010 n. 3 (D.C. 2009)
- In re S.G., 581 A.2d 771, 779 (D.C. 1990)
- Broadcast Music v. Havana Madrid Rest. Corp., 175 F.2d 77, 80 (2d Cir. 1949)
- Morris v. United States, 728 A.2d 1210, 1215 (D.C. 1999)
- Lusby v. State, 141 A.2d 893, 896 (Md. 1958)
- Williams v. State, 643 S.E.2d 749, 752 (Ga. Ct. App. 2007)
- Comstock v. State, 15 N.W. 355, 356 (Neb. 1883)
- Jackson v. Virginia, 443 U.S. 307, 318-19 (1979)
- Sargent v. State, 875 N.E.2d 762, 767 (Ind. Ct. App. 2007)
- State v. Sockbeson, 430 A.2d 1105, 1106 (Me. 1981)
- Tapscott v. State, 664 A.2d 42, 52 (Md. Ct. Spec. App. 1995), aff'd on different issue, 684 A.2d 439 (Md. 1996)
- In re Estate of Turpin, 19 A.3d 801, 808 n. 11 (D.C. 2011)
- Roberts-Douglas v. Meares, 624 A.2d 405, 419 n. 20 (D.C. 1992)
- English v. United States, 25 A.3d 46, 54 n. 11 (D.C. 2011)
- Matthews v. District of Columbia, 875 A.2d 650 (D.C. 2005)
- In re Estate of Glover, 470 A.2d 743, 749 (D.C. 1983)
- In re J.D.C., 594 A.2d 70, 75-76 (D.C. 1991)
- Sparks v. United States, 755 A.2d 394, 401 (D.C. 2000)
- Smith v. United States, 26 A.3d 248, 261 (D.C. 2011)