

MICHIGAN SUPREME COURT

People v. Zajackowski

493 Mich. 6 (2012) · No. 143736 · Decided December 19, 2012

SUMMARY

The Michigan Supreme Court held that undisputed DNA evidence showing no biological relationship between the defendant and victim defeated the blood-relationship element of first-degree criminal sexual conduct under MCL 750.520b(1)(b)(ii). The civil presumption of legitimacy could not conclusively establish a blood relationship in this criminal case. The Court vacated the first-degree conviction and remanded for entry of a third-degree criminal sexual conduct conviction and resentencing under the plea agreement.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Diane M. Hathaway; Robert P. Young, Jr.; Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman; Mary Beth Kelly; Brian K. Zahra
JURISDICTION	Michigan
DECIDED	December 19, 2012
DOCKET	143736
DISPOSITION	vacated
PROCEDURAL POSTURE	Defendant pleaded guilty to first-degree criminal sexual conduct under a conditional plea agreement preserving his right to appeal whether the undisputed facts established only third-degree criminal sexual conduct. The Michigan Court of Appeals affirmed, and the Michigan Supreme Court granted leave to appeal.
STANDARD OF REVIEW	De novo review applies to the interpretation and application of a statute.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion; binding precedent in Michigan.
PARTIES	Jason Joseph Zajackowski v. People of the State of Michigan

TOPICS

- statutory interpretation
- plain meaning rule
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

statutory interpretation

appellate practice

QUESTIONS PRESENTED

1. Whether a defendant may be convicted of first-degree criminal sexual conduct under MCL 750.520b(1)(b)(ii) when undisputed DNA evidence establishes that he is not biologically related to the victim.
2. Whether the civil presumption of legitimacy or the defendant's lack of standing to challenge his legitimacy may substitute for a blood relationship to satisfy the relationship element of the criminal statute.
3. Whether the conviction should be reduced to third-degree criminal sexual conduct under the defendant's conditional plea agreement.

HOLDINGS

1. A relationship by blood under MCL 750.520b(1)(b)(ii) requires a biological relationship arising by descent from a common ancestor or by birth rather than marriage. Because undisputed DNA evidence established that defendant and the victim did not share a biological father, the prosecution could not establish that they were related by blood to the fourth degree.
2. The civil presumption of legitimacy cannot be used conclusively to establish the blood relationship element of MCL 750.520b(1)(b)(ii) when undisputed DNA evidence shows that the defendant and victim are not biologically related.
3. Because the elements of first-degree criminal sexual conduct could not all be established, defendant's first-degree conviction had to be vacated and the trial court had to enter a conviction of third-degree criminal sexual conduct in accordance with the conditional plea agreement and resentence defendant.

KEY QUOTATIONS

“Under the statutory language, the third element of MCL 750.520b(1)(b)(ii) can only be met if defendant is related to the victim in one of two ways—by blood or by affinity.” (7)

“Given that this case does not involve an action to establish paternity, challenge child custody arrangements, or dispute intestacy issues, we find it unnecessary to stray from this criminal statute’s plain and unambiguous language.” (8)

“Because the elements of first-degree criminal sexual conduct under MCL 750.520b(1)(b)(ii) cannot all be met, we conclude that defendant was not properly convicted of that crime.” (9)

FACTUAL BACKGROUND

Jason Zajackowski was born during the marriage of his mother and Walter Zajackowski, but later DNA testing established that Walter was not his biological father. Walter subsequently fathered the victim, who was 14 when defendant engaged in sexual intercourse with her. The prosecution conceded that defendant and the victim had no biological relationship and no relationship by affinity, but argued that the civil presumption of legitimacy made them related by blood as a matter of law.

PROCEDURAL HISTORY

The Kent Circuit Court denied defendant's motion to dismiss or reduce the charge despite undisputed DNA evidence showing that the alleged common father was not defendant's biological father. Defendant then pleaded guilty to first-degree criminal sexual conduct conditionally. The Court of Appeals affirmed the conviction, holding that the civil presumption of legitimacy established a blood relationship as a matter of law. The Michigan Supreme Court vacated the first-degree conviction and remanded for entry of a third-degree conviction under the plea agreement and resentencing.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the conviction for first-degree criminal sexual conduct and remand to the trial court for entry of a conviction of third-degree criminal sexual conduct in accordance with the May 5, 2009, plea agreement, resentencing, and further proceedings not inconsistent with the opinion.

CASES CITED

- People v. Zajackowski, 293 Mich. App. 370; 810 N.W.2d 627 (2011)
- People v. Lee, 489 Mich. 289, 295; 803 N.W.2d 165 (2011)
- Miller-Davis Co. v. Ahrens Constr., Inc., 489 Mich. 355, 361; 802 N.W.2d 33 (2011)
- People v. Koonce, 466 Mich. 515, 518; 648 N.W.2d 153 (2002)
- People v. Morey, 461 Mich. 325, 330; 603 N.W.2d 250 (1999)
- Bliss v. Caille Bros. Co., 149 Mich. 601, 608; 113 N.W. 317 (1907)
- Barnes v. Jeudevine, 475 Mich. 696; 718 N.W.2d 311 (2006)
- In re KH, 469 Mich. 621; 677 N.W.2d 800 (2004)
- Girard v. Wagenmaker, 437 Mich. 231; 470 N.W.2d 372 (1991)
- People v. Idziak, 484 Mich. 549; 773 N.W.2d 616 (2009)