

SUPREME COURT OF IOWA

State of Iowa v. Jerry Lee Michael Newell

State v. Newell · No. No. 158 / 03-0624 · Decided February 10, 2006

SUMMARY

The Iowa Supreme Court affirmed Jerry Lee Michael Newell’s conviction for first-degree murder in the death of Kathy Gillen. The court held that challenged hearsay and prior-acts evidence was properly admitted or harmless, and that the properly admitted evidence overwhelmingly supported the conviction.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Justice Ternus
JURISDICTION	Iowa
DECIDED	February 10, 2006
DOCKET	No. 158 / 03-0624
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a conviction for first-degree murder after the Iowa District Court for Black Hawk County denied the defendant's motion for new trial and motion in arrest of judgment and sentenced him to life imprisonment.
STANDARD OF REVIEW	Hearsay claims were reviewed for correction of errors at law; prior-acts evidence, expert-testimony rulings, and the denial of a mistrial were reviewed for abuse of discretion; Confrontation Clause and change-of-venue claims were reviewed de novo; instructional-error claims were reviewed for correction of errors at law; and ineffective-assistance claims were evaluated under the essential-duty and prejudice standards.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential unless subsequently limited or overruled.
PARTIES	Jerry Lee Michael Newell v. State of Iowa

TOPICS

evidence

hearsay

criminal procedure

expert testimony

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether testimony concerning the relationship between Newell and Gillen was inadmissible hearsay or impermissible prior-bad-acts evidence.
2. Whether admission of statements made by Newell's deceased mother violated the Confrontation Clause or evidentiary rules.
3. Whether expert testimony concerning domestic-violence dynamics was improperly admitted.
4. Whether the jury instructions improperly permitted malice aforethought to be inferred from predicate felonies or otherwise failed to require malice for felony murder.
5. Whether third-offense domestic-abuse assault could serve as a predicate felony for felony murder and, if so, whether its submission prejudiced Newell.
6. Whether trial counsel was ineffective for failing to object to alleged bolstering of a prosecution witness.
7. Whether testimony referring to Newell's incarceration on drug charges required a mistrial.
8. Whether the district court erred in denying a change of venue based on adverse publicity.

HOLDINGS

1. The district court did not commit reversible error in admitting the challenged testimony. Some statements were not hearsay because they were offered for purposes other than proving the truth of the matter asserted; other statements fell within hearsay exceptions; and any improperly admitted hearsay was harmless because substantially similar evidence was properly admitted or the properly admitted evidence of guilt was overwhelming.
2. The evidence of Newell's prior abusive, controlling, and hostile conduct toward Gillen was admissible under Iowa Rule of Evidence 5.404(b) to show the relationship, motive, and malice aforethought, rather than merely to establish criminal propensity.
3. Admission of Culbert's statements did not require reversal. The statements were either not hearsay because they were admitted to show that they were made or to establish a cover-up, or any testimonial hearsay was cumulative and harmless beyond a reasonable doubt.
4. The district court acted within its discretion in admitting Lieutenant Taylor's expert testimony concerning the dynamics of domestic violence.
5. The jury instructions properly required the State to prove malice aforethought under every first-degree-murder alternative, including felony murder. The instruction permitting the jury to infer malice from specified felonies did not eliminate the malice requirement.
6. The court did not need to decide whether third-offense domestic-abuse assault could serve as the felony-murder predicate because Newell failed to show prejudice from submission of that alternative.

7. Newell could not establish ineffective assistance of counsel because an objection to the detective's testimony about McClain's reasons for coming forward would have lacked merit, and the detective's comment about corroboration caused no prejudice.
8. The district court did not abuse its discretion in denying a mistrial after a witness briefly referred to Newell's incarceration on drug charges.
9. The district court properly denied Newell's motion for a change of venue because the publicity was not sufficiently pervasive or inflammatory to create a substantial likelihood that a fair and impartial trial could not be held in Black Hawk County.

KEY QUOTATIONS

"We think the evidence challenged here was highly relevant to the issue of malice aforethought because it showed the relationship between the defendant and the victim and was pertinent to the defendant's possible motive for beating and strangling Gillen." (Section II.D)

"Under both conclusions, the court's allowance of Culbert's out-of-court statements did not violate the Confrontation Clause." (Section III)

"The commission of a forcible felony was simply one factor from which the defendant's state of mind could be determined." (Section V)

"The media coverage of the defendant's case was not pervasive, nor was it inflammatory." (Section IX)

FACTUAL BACKGROUND

Jerry Newell and Kathy Gillen lived together in Waterloo with their two-month-old child. After Gillen returned from a grocery trip on June 15, 2001, witnesses heard arguing and screaming, and Newell left the residence without calling 911 after finding Gillen unresponsive. Medical evidence showed Gillen died from strangulation and blunt-force trauma, with injuries inconsistent with an accidental fall. Newell gave several inconsistent accounts, made statements implicating himself to friends and a jail inmate, and attempted to persuade a friend to fabricate an accident explanation.

PROCEDURAL HISTORY

Newell was charged with first-degree murder under alternative theories of premeditation and felony murder. A jury convicted him on March 3, 2003, and the district court imposed a life sentence. The Iowa Supreme Court reviewed claims concerning hearsay, prior-acts evidence, the Confrontation Clause, expert testimony, jury instructions, submission of a felony-murder predicate, ineffective assistance, a mistrial, and venue, and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Buenaventura, 660 N.W.2d 38 (Iowa 2003)

- State v. Dullard, 668 N.W.2d 585 (Iowa 2003)
- State v. Long, 628 N.W.2d 440 (Iowa 2001)
- State v. White, 668 N.W.2d 850 (Iowa 2003)
- State v. Powell, 684 N.W.2d 235 (Iowa 2004)
- State v. Hildreth, 582 N.W.2d 167 (Iowa 1998)
- State v. Holland, 485 N.W.2d 652 (Iowa 1992)
- State v. Sullivan, 679 N.W.2d 19 (Iowa 2004)
- State v. Taylor, 689 N.W.2d 116 (Iowa 2004)
- State v. Plaster, 424 N.W.2d 226 (Iowa 1988)
- State v. Rodriguez, 636 N.W.2d 234 (Iowa 2001)
- State v. Emerson, 375 N.W.2d 256 (Iowa 1985)
- State v. Kellogg, 263 N.W.2d 539 (Iowa 1978)
- State v. Hallum, 606 N.W.2d 351 (Iowa 2000)
- DeVoss v. State, 648 N.W.2d 56 (Iowa 2002)
- Pointer v. Texas, 380 U.S. 400 (1965)
- State v. Castaneda, 621 N.W.2d 435 (Iowa 2001)
- Crawford v. Washington, 541 U.S. 36 (2004)
- Ohio v. Roberts, 448 U.S. 56 (1980)
- State v. Brown, 656 N.W.2d 355 (Iowa 2003)
- Sullivan v. Louisiana, 508 U.S. 275 (1993)
- In re Detention of Palmer, 691 N.W.2d 413 (Iowa 2005)
- State v. Belken, 633 N.W.2d 786 (Iowa 2001)
- State v. Kolbet, 638 N.W.2d 653 (Iowa 2001)
- State v. Gettier, 438 N.W.2d 1 (Iowa 1989)
- State v. Piper, 663 N.W.2d 894 (Iowa 2003)
- State v. Fintel, 689 N.W.2d 95 (Iowa 2004)
- State v. Oliver, 341 N.W.2d 744 (Iowa 1983)
- State v. Graves, 668 N.W.2d 860 (Iowa 2003)
- State v. Brotherton, 384 N.W.2d 375 (Iowa 1986)
- State v. Hulbert, 481 N.W.2d 329 (Iowa 1992)
- State v. Anderson, 448 N.W.2d 32 (Iowa 1989)
- State v. McMullin, 421 N.W.2d 517 (Iowa 1988)
- State v. Greene, 592 N.W.2d 24 (Iowa 1999)
- State v. Siemer, 454 N.W.2d 857 (Iowa 1990)

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