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Summary of Coleman v. State, 130 Nev. Adv. Op. 26

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EVIDENCE LAW: STATEMENTS AGAINST INTEREST

Summary

The Court determined three issues: (1) whether there was sufficient evidence to support a conviction of first-degree murder by child abuse; (2) whether NRS 51.345 is constitutional; and (3) whether NRS 51.345 was properly applied by the trial court to exclude testimony in this case.

Disposition

The Court held that (1) the evidence was sufficient to support a conviction of first-degree murder by child abuse; (2) NRS 51.345 is constitutional but “must not be so rigorously applied that it ignores the purpose for the rule and instead infringes the defendant's constitutional right to a meaningful opportunity to present a complete defense”; and (3) NRS 51.345 was improperly applied in this case.

Factual and Procedural History

This case arises out of the death of a six week old baby named Tristen. Tristen lived in a house with his mother Gaynor, Gaynor's brother Brian Harris, Gaynor's son Devin, and Gaynor's boyfriend Coleman. During the time period preceding Tristen's death, Brian Harris was using methamphetamine on a daily basis and would often engage in drug dealing or drug use inside the house. On the night of Tristen's death, Tristen was in the care of Coleman. The only individuals in the house when emergency personnel arrived were Tristen, Coleman, and Devin. A number of first responders testified to observing burns, which appeared to be recent, on Tristen's body. After trying to revive Tristen and failing, responders pronounced the boy dead.

Besides the burns, an examination also revealed that Tristen had other health issues. He weighed less than he did at birth, was malnourished, and his brain was swollen. In addition, he also had two skull fractures resulting from blunt force trauma, fresh bleeding in the muscles of his back, and multiple fractured ribs. The official cause of death was head injuries and burns with starvation contributing to the death. Furthermore, the death was ruled to be a homicide.

Coleman told officers that he had bathed Tristen and put him to sleep before he also went to sleep himself. He stated that he woke to find that Tristen's skin was peeling from burns and he was unresponsive. There was evidence that the burns could have resulted from unusually hot water in the house, reaching as high as 131 degrees.

Before trial, Coleman's counsel informed the court that he sought to call three female witnesses, all who had been incarcerated with Gaynor, who planned to testify concerning

¹ By Ryan Becklean.

statements made by Gaynor about burns that both she and Tristen suffered as a result of being splashed during the methamphetamine “cooking” process. However, the state objected to the statements on hearsay grounds and the court agreed. The court held an evidentiary hearing that found the statements were so lacking in any indicia of trustworthiness that they could not be admitted as statements against penal interest under NRS 51.345 as Coleman argued. Coleman's attorney later lodged a complaint on the record alleging potential due process issues with NRS 51.345. Coleman was convicted of first-degree murder by child abuse and sentenced to life with a possibility of parole after 20 years.

Discussion

Sufficiency of the Evidence

Coleman first argued that the evidence was insufficient to uphold a conviction for first-degree murder by child abuse because the State failed to prove that he inflicted fatal injuries and that the death was not accidental. However, the Court held that, when viewing the evidence in the light most favorable to the prosecution, there was sufficient evidence for a rational trier of fact to have found the essential elements of the crime beyond a reasonable doubt. The Court specifically pointed to the evidence that Tristen had been abused since birth, had been alone with Coleman all weekend, might have been scalded by an abnormally hot bath given by Coleman, and that the cause of death was both burns and fractures consistent with blunt force.

The Exclusion of Testimony from Three Defense Witnesses

Coleman next argued that NRS 51.345 was unconstitutional. Furthermore, he argued that even if the statute was constitutional, reversal was warranted because the trial court abused its discretion in failing to admit the defense witnesses' testimony about Gaynor's statements.

Constitutionality of NRS 51.345

Coleman challenged NRS 51.345 as unconstitutional because he claimed it subjected certain exculpatory hearsay statements to a trustworthiness determination based on corroborating circumstances that did not apply similar inculpatory statements offered by the state. Furthermore, Coleman also alleged that the statute arbitrarily allowed the district court to exclude defense evidence based upon a trustworthiness determination that should have been decided by a jury as opposed to a judge.

The Court reviewed the challenge to the constitutionality of statute de novo and explained that a statement against interest was an exception to the bar against hearsay, provided

that certain conditions were met². The Court addressed the Supreme Court case of *Holmes v. South Carolina*³, in which the Supreme Court held unconstitutional “an evidence rule under which the defendant may not introduce proof of third-party guilt if the prosecution has introduced forensic evidence that, if believed, strongly supports a guilty verdict.”⁴ However, the Nevada Court noted that *Holmes* actually supported the constitutionality of NRS 51.345 by indicating that rules based on the credibility of the witnesses or the reliability of the evidence would be proper.

The Court also pointed to an Oklahoma case that stated that, in applying the evidentiary rule regarding statements against interest, a court must balance fabrication concerns with the constitutional right to have a meaningful opportunity to present a complete defense. The Court pointed out that Nevada’s application of the statute was in line with this principle.⁵ Specifically, the court stated: “Our caselaw does not apply NRS 51.345 so rigorously as to hold the defendant to a standard that is disproportionate to the statute’s intended goal of providing reliability or unfairly burdens the defendant’s constitutional rights.” Therefore, the court held that the statute was not unconstitutional.

Application of NRS 51.345 to this case

The Court next addressed Coleman’s contention that the lower court abused its discretion by excluding the three witnesses’ testimony about Gaynor’s statements.

The statements

The Court discussed the nature of the statements of two of the potential witnesses, which included statements by Gaynor that she had been burned while cooking methamphetamine with her brother, that she knew that it was her brother who had killed Tristen, and that Tristen had died as a result of burns.

² NRS 51.345(1) states that a statement against interest is excepted from the hearsay bar and is admissible, provided that the statement, at the time it is made:

- (a) Was so far contrary to the pecuniary or proprietary interest of the declarant;
- (b) So far tended to subject the declarant to civil or criminal liability;
- (c) So far tended to render invalid a claim by the declarant against another; or
- (d) So far tended to make the declarant an object of hatred, ridicule or social disapproval, that a reasonable person in the position of the declarant would not have made the statement unless the declarant believed it to be true.

³ 574 U.S. 319 (2006).

⁴ *Id.* at 321.

⁵ *Walker v. State*, 116 Nev. 670, 676, 6 P.3d 477, 480 (2000) explains that, “the statutory test for determining the admissibility of statements against penal interest under NRS 51.345 is whether the totality of the circumstances indicates the trustworthiness of the statement or corroborates the notion that the statement was not fabricated to exculpate the defendant.”

Potential for criminal liability

Although the lower court held that Gaynor's statements were not self-incriminating, the Court disagreed finding it abused its discretion. "Gaynor's alleged statements that she was holding her baby next to where her brother was cooking methamphetamine, resulting in splatter burns, tended to subject her to additional criminal liability for child abuse or child neglect as she admitted to holding a newborn next to highly explosive toxic substances."

Corroborating circumstances and trustworthiness

There was sufficient corroborating circumstances to warrant finding the two witnesses' statements trustworthy under the eight factors considered by other jurisdictions in making the inquiry. Although Gaynor may have been motivated to lie to protect Coleman, the individuals to whom the Gaynor's statements were made did not have reason to lie. The district court should have allowed the testimony because a jury could have found that, given the circumstances and Tristen's fragile conditions, the burns could have taken place before the day of Tristen's death. However, the Court noted that the district court did not abuse its discretion in excluding the testimony of a third witness, who would have testified to similar statements, because that witness failed to attend the evidentiary hearing.

The error was not harmless

The Court held that the error was not harmless because it impacted Coleman's constitutional right to a meaningful opportunity to present a complete defense. This evidence was very important because it may have shown that the burns, a potential cause of death, took place before Coleman began caring for Tristen.

Instructions on felony murder and child abuse

Coleman argues that two instructions confused and misled the jury as they represented that a killing committed in the perpetration of child abuse is deemed to be murder of the first degree, even if the killing was accidental. The Court disagreed. The instructions properly complied with Nevada's statutory scheme and the purpose behind the felony-murder rule.

Conclusion

The Court held that the district court abused its discretion in not allowing testimony from two defense witnesses and that this prejudiced Coleman. The conviction was reversed and the matter remanded for a new trial.