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Summary of State v. Huebler, 128 Nev. Adv. Op. No. 19

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CRIMINAL PROCEDURE – EXCULPATORY EVIDENCE

Summary

The Court considered an appeal from the district court’s grant of relief of an untimely petition for a writ of habeas corpus from a conviction based on a guilty plea.

Disposition/Outcome

The Court concluded that the State is required to disclose material exculpatory evidence to the defendant before a guilty plea. However, for the defendant to successfully challenge the validity of a guilty plea, three components must be demonstrated. In this case, the defendant did not meet the third component because he failed to establish that the evidence was material. Accordingly, the Court reversed the relief granted.

Factual and Procedural History

A neighbor called the police after seeing the defendant, Charles Huebler, acting inappropriately with children in his apartment complex’s pool. During the police investigation, a seven-year-old girl stated that Huebler inappropriately touched her on multiple occasions while they were swimming. The police retrieved surveillance tapes which showed Huebler and the girl in the pool together.

Following Huebler’s arrest, defense counsel filed a motion for discovery and asked for access to the surveillance tapes. The prosecutor had not yet received a copy of the tapes from the police, but the prosecutor told the defense counsel that the tapes would be sent to the public defender’s office when the district attorney’s office received them. Shortly thereafter, Huebler pled guilty to lewdness with a child under the age of 14.

Two years after the conviction, Huebler filed a petition for a writ of habeas corpus that alleged, among other things, that the State had violated *Brady v. Maryland*² by not releasing the surveillance tapes and that, but for the State’s failure to disclose the evidence, he would have refused to plead guilty and proceeded to trial. The district court granted Huebler relief and ruled that the tapes were exculpatory evidence. The State appealed and argued that the district court did not use the appropriate materiality standard in deciding Huebler’s *Brady* claim was sufficient to demonstrate good cause for his delay and to warrant the relief granted.

¹ By Richard A. Andrews

² 373 U.S. 83 (1963).

Discussion

Justice Douglas wrote for the Court, seated en banc.³ Because Huebler did not pursue a direct appeal, the Court first assessed whether Huebler had good cause for delay in filing the petition for a writ of habeas corpus.⁴ To show good cause, the petitioner must demonstrate that the delay was not the fault of the petitioner and that the petitioner would be unduly prejudiced if the petition were not granted.⁵

The Court then determined that Huebler's good cause claim was dependent on his *Brady* claim. To prove a *Brady* violation, the accused must show: (1) that the evidence was favorable to the accused, either because it was exculpatory or impeaching; (2) that the State withheld the evidence; and (3) that the withholding resulted in prejudice ("i.e., the evidence was material").⁶ Because the second and third components listed are interwoven with the criteria for demonstrating good cause, the Court reasoned that Huebler must satisfy the *Brady* claim to overcome the procedural time limit in Nevada. The Court reviewed the district court's decision on the *Brady* claim de novo because it required consideration of facts and legal issues.

Before a review of the *Brady* components, the Court addressed whether a defendant challenging the validity of a guilty plea could assert a *Brady* claim. The issue exists because *Brady* has been labeled a trial right and because a defendant pleading guilty waives the right to a fair trial. The parties agreed that a *Brady* claim was not defeated by a guilty plea. Additionally, the Ninth Circuit held that a loss of *Brady* rights after a guilty plea could tempt prosecutors to withhold exculpatory evidence.⁷ On the other hand, the Supreme Court held that the Constitution does not require the disclosure of impeachment evidence related to informants or witnesses before a plea agreement.⁸ Ultimately, the Court held that the difference between exculpatory and impeachment evidence distinguished this case from the Supreme Court precedent, and that a defendant may challenge the validity of a guilty plea based on the prosecution's failure to disclose material exculpatory information before entry of the plea. The Court stated, though, that the guilty plea context requires a showing that the withheld evidence be "material" to demonstrate prejudice for the purposes of a *Brady* violation.

Next, the Court adopted the materiality test set by the Ninth Circuit in *Sanchez v. U.S.*⁹ Therefore, when a defendant makes a specific request, the "withheld evidence is material in the guilty plea context if there is a reasonable possibility but for the failure to disclose the evidence the defendant would have refused to plead and would have insisted on going to trial."

³ Senior Justice Shearing was appointed to sit in the place of Chief Justice Saitta, who voluntarily recused herself from participation in this decision.

⁴ Such a petition must be filed within one year after the entry of judgment or within one year after remittitur by the Court of a timely appeal. NEV. REV. STAT. § 34.726(1) (2007).

⁵ *Id.*

⁶ *State v. Bennett*, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003) (quoting *Mazzan v. Warden*, 116 Nev. 48, 66, 993 P.2d 25, 36 (2000)).

⁷ *Sanchez v. U.S.*, 50 F.3d 1448, 1453 (9th Cir. 1995).

⁸ *U.S. v. Ruiz*, 536 U.S. 622, 625 (2002).

⁹ 50 F.3d at 1454.

To determine the reasonable possibility described above, the Court looked particularly at the list of factors used by the Wisconsin Court of Appeals in determining materiality for *Brady* Claims. The five factors are: 1) the strengths and weaknesses of each side's case; 2) the persuasiveness of the withheld evidence; 3) the reasons the defendant pled guilty; 4) the benefits the defendant received for pleading; and 5) the substance of the plea conversation.¹⁰ In accepting these factors as relevant, the Court maintained that each case may have other relevant factors worth considering.

The Court then listed five factors that demonstrated the improbability of Huebler refusing to plead guilty if the surveillance tapes had been released. First, there was substantial evidence of his guilt. Second, the tapes did not record any events underwater, and thus did not refute the victim's claims. Therefore, it was questionable whether the tapes were exculpatory at all. Third, that State presented evidence that Huebler had insisted on pleading guilty. Fourth, Huebler received a benefit from entry of the guilty plea, because the charges were reduced and the investigation ended as a result of the plea. Fifth, Huebler signed an agreement which indicated he entered into the guilty plea knowingly. Based on these factors, the Court concluded that the pre-plea disclosure of the surveillance tapes would not have caused Huebler to refuse to plead guilty and instead insist on going to trial.

Conclusion

The State is required to disclose material exculpatory evidence within its possession to the defense before the entry of a guilty plea. When the State fails to make this required disclosure, the defendant may challenge the validity of the guilty plea on that basis.

To succeed in challenging the validity of the guilty plea on such a basis, the defendant must demonstrate the three components of a *Brady* violation in the context of a guilty plea: (1) that the evidence at issue was exculpatory, (2) that the state withheld the evidence, and (3) that the evidence was material.

To demonstrate that withheld exculpatory evidence was material, the defendant must show a reasonable probability or possibility (depending on whether there was a specific discovery request) that he would have refused to plead guilty and insisted on going to trial if the withheld evidence had been delivered before entry of the guilty plea.

¹⁰ State v. Sturgeon, 605 N.W.2d 589, 596 (Wisc. Ct. App. 1999).