State of Connecticut v. Judith Scruggs

No. SC 17587 (Conn. 09/05/2006);
2006.CT.0000448< http://www.versuslaw.com>

The Connecticut Supreme Court ordered the acquittal of Judith Scruggs from her conviction of contributing to the suicide of her 12-year-old son by keeping a "messy" home. The following are excerpts from the September 2006 opinion.

[12] ... In late 2001, Judith Scruggs was a single parent living in a three bedroom apartment with her two children, Kara Morris (Kara) and Daniel. Kara was seventeen and Daniel was twelve. The defendant worked approximately sixty hours a week at two jobs-one as a full-time employee of the school that Daniel attended, the other as a part-time employee at Wal-Mart. Daniel was bullied relentlessly at school and, from September through December, 2001, was absent on many days. He frequently exhibited poor hygiene and occasionally defecated in his pants. At home, he slept in his bedroom closet, where he kept knives and a homemade spear to protect himself. The state department of children and families (department) was aware of Daniel's problems, and had been working with the defendant to have him placed in a different school. At some point in late 2001, the department conducted an inspection of the defendant's apartment in connection with its investigation of Daniel's situation. On December 27, 2001, the department closed its file on Daniel. In the early morning hours of January 2, 2002, Daniel hanged himself in his bedroom closet. During the investigation into Daniel's death, Officer Michael Boothroyd and Detective Gary Brandl of the Meriden police department, Pamela Kudla, a crisis intervention specialist called in by the police to assist Daniel's family, and Ronald Chase, an investigator for the state medical examiner's office, entered the defendant's apartment. They observed that it was extremely cluttered and that it had an unpleasant odor.

[14] Thereafter, the state filed a four count information [charging Scruggs with child neglect or endangerment violations.]

[16] The jury found the defendant guilty under the first count ... only ["willfully or unlawfully causing or permitting a child under the age of sixteen years to be placed in such a situation that the health of such child was likely to be injured ... [by] providing a home living environment that was unhealthy and unsafe" in violation of § 53-21 (a) (1).]

[22] The trial court rejected the defendant's claim that expert testimony was required to establish that the conditions in the apartment likely would result in injury to the mental health of a child.

[27] On appeal, the defendant claims that: (1) § 53-21 (a) (1) is unconstitutionally vague as applied to her conduct because the statute provides no notice that poor housekeeping may be a criminal offense; and (2) the evidence was insufficient to support the defendant's conviction for risk of injury to a child under § 53-21(a) (1) because, without expert testimony, the jury had no basis upon which to conclude that the conditions in her apartment were likely to cause a mental health injury to a child.

[28] The defendant argues that § 53-21 (a) (1) is unconstitutionally vague as applied to her conduct because it does not require the state to prove that she had the intent to injure Daniel, She further argues that, even if the statute includes a knowledge requirement, the statute is vague because she could not have known that her conduct violated the statute.

[29] "A statute ... [that] forbids or requires conduct in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process. . . . Laws must give a person of ordinary intelligence a reasonable opportunity to know what is prohibited so that he may act accordingly." ... [T]he void for vagueness doctrine embodies two central precepts: the right to fair warning of the effect of a governing statute ... and the guarantee against standardless law enforcement.

[33] We agree with the defendant that the intent requirement of § 53-21 (a) (1), which, on its face, requires the state to prove only that the defendant had the general intent to commit an act that was likely to injure the health of a child, would be unconstitutionally vague as applied to otherwise lawful conduct that no reasonable person could have known to have posed such a threat. [W]e conclude that the statute is unconstitutionally vague as applied to the defendant's conduct. The state has pointed to no statutes, published or unpublished court opinions in this state or from other jurisdictions, newspaper reports, television programs or other public information that would support a conclusion that the defendant should have known that the conditions in her apartment posed an unlawful risk to the mental health of a child. Rather, the state implicitly relies on an "I know it when I see it" standard. *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring) (stating that, although it is difficult to define obscenity, "I know it when I see it"). We recognize that there may be generally accepted housekeeping norms and that it may be common knowledge that, all things being equal, a clean and orderly home is preferable to a dirty and cluttered home. The same could be said of any number of conditions and actions that affect a child's well-being. It may be common knowledge, for example, that drinking milk is healthier than a constant diet of soft drinks, reading books is preferable to constant exposure to television programs, large cars are safer than small cars, playing computer games is safer than riding a bicycle, and so on. All of these comparisons, however, involve virtually infinite gradations of conduct, making it extremely difficult, if not impossible, for an ordinary person to know where the line between potentially harmful but lawful conduct and unlawful conduct lies or, indeed, whether that line exists at all. Not all conduct that poses a risk to the mental or physical health of a child is unlawful. Rather, there is an acceptable range of risk.

[45] Moreover, … the evidence showed that employees of the department had inspected the defendant's apartment during late 2001, and had closed its file on the family only days before Daniel's suicide, ... the only experts in child safety who had knowledge of the conditions in the defendant's home during the relevant period apparently had concluded that

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mains an unsolved crime. A 2001 movie about the case, *Sherry Ann*, received excellent reviews for its production values, acting and faithfulness to the facts.

Duncan's murder was one of the most publicized crimes in Thailand's history, and the unprofessional conduct of the police during the initial investigation of the case, including the brutal interrogations that caused all four defendants to falsely confess, resulted in changes to the country's criminal code.

Note: As of December 2006, the DVD of *Sherry Ann* has only been released in REGION 0 PAL FORMAT, which is incompatible with the DVD players sold in the United States.

Sources:

Our Man in Asia Pacific, by Mike Thomason, July 17, 2005.
Daughter of wrongfully convicted man gets b11.9m, *Bangkok Post*, July 29, 2006
Outcome in Sherry Ann Case, *Thai News*, Issue 59, October 2003, p. 2
Kin win case for compensation, *The Nation*, Bangkok, Thailand, July 29, 2006

$1.67 Million To Man Wrongly Convicted Of Murder Based On False Positive Lab Test

By JD Staff

Richard Karling met with an ex-girlfriend, Dorothy Niven, at a Glasgow, Scotland coffee shop in 1995. After she became ill and he took her home. He left while she was resting. The next day he went to see how she was doing. He found her dead and called the police.

Karling told police about the events of the previous day. Police investigators interviewed witnesses at the cafe who described the couple as genially talking until Niven seemed to become ill. She was described as being unsteady and weak-kneed when the couple left together.

A sample of Niven's blood was tested at Glasgow University for the presence of drugs. The test produced a negative result. But a retest resulted in a positive test for temazepam: a commonly prescribed water-soluble drug that helps a person fall asleep.

Police theorized that Karling drugged the orange juice Niven was drinking at the coffee shop with temazepam to make her weak and groggy, and then took her home and smothered her.

Prosecuted for Niven's murder, the media sensationally dubbed Karling as the "Pancake Place" murderer, since that was the name of the coffee shop where he allegedly drugged her.

The centerpiece of the prosecution's case was the positive test result for temazepam. It was used as the basis for their theory that Karling smothered Niven, since her official cause of death was ruled to be suffocation. Karling's lawyers retained a pathologist to render an opinion on Niven's cause of death, and he also determined she almost certainly died of suffocation.

At trial, the defense expert was called as a witness by the prosecution to bolster their theory of the crime. Karling's lawyers argued that the expert opinions about Niven's cause of death could be mistaken, and that all that was known for certain was the 33-year-old woman's heart had stopped.

Karling was convicted by a majority jury verdict and sentenced to life in prison. (Scotland allows a murder conviction by a majority jury vote.)

While working on his appeal, Karling learned that prior to his trial the police had also sent a sample of Niven's blood to Guy's Hospital in London that has expertise in detecting poisons. No temazepam was detected during multiple tests of that sample.

In addition, expert analysis of Niven's post-mortem examination determined there was no scientific evidence to base a conclusion that she died from suffocation.

Based on the exculpatory blood tests the prosecution had not disclosed to Karling, and the new evidence that Niven didn't die from suffocation, in 2000 Scotland's Court of Appeal ordered Karling's release on bail pending the outcome of his appeal.

Karling's conviction was quashed by the Court of Appeals in 2001. The Court ruled Karling's conviction was a miscarriage of justice because the Guy's Hospital test results were "completely contradictory of the evidence that was placed before the jury."

The prosecution dismissed the charges since the new evidence left them without the pretense of a viable case against Karling.

Cleared of being the Pancake Place murderer, Karling filed a lawsuit against the Strathclyde (Glasgow) Police for their role in concealing the toxicology report by Guy's Hospital.

Karling also filed a lawsuit against the pathologist his lawyers retained prior to his trial, but who in fact testified for the prosecution. Karling's suit alleging "breach of contract" and "negligence" claimed in part:

> "The pursuer [Karling] has suffered loss and damage as a consequence of breach of contract on the part of the defender [pathologist]. The defender was employed on behalf of the pursuer to undertake a post mortem examination and to advise the pursuer's defence team on

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they were not so deplorable as to pose an immediate threat to Daniel's mental health. ...

[46] There were several possible explanations for Daniel's state of mind and behavior, however, including the relentless bullying that he endured at school and his inherently fragile psyche. When a defendant knows that he is engaged in conduct that is sufficiently dangerous to be criminalized, the defendant is on notice that exposure to that conduct could injure a child's mental health. In the present case, the state concedes that being messy is not, in and of itself, unlawful, and points to no objective standards for determining the point at which housekeeping becomes so poor that an ordinary person should know that it poses an unacceptable risk to the mental health of a child.

[49] ... Moreover, the trial court found that the conditions were not so bad that they would pose a threat to a child's physical health. The evidence showed only that the apartment was extremely cluttered and had an unpleasant odor of uncertain origin. We cannot conclude that the defendant was on notice that these conditions were so squalid that they posed a risk of injury to the mental health of a child within the meaning of § 53-21 (a) (1). Accordingly, we conclude that the statute is unconstitutionally vague as applied to the defendant's conduct.

[50] The judgment is reversed and the case is remanded to the trial court with direction to grant the defendant's motion for judgment of acquittal.

[52] BORDEN, J., with whom PALMER, J., joins, concurring.

[53] I fully agree with and join the well reasoned majority opinion. ....

[56] The record reflects that … only days before Daniel's death, the agency of the state of Connecticut that is dedicated to protecting children from abuse and neglect, had, by its conduct and words, sent a clear message to the defendant that the department saw no significant cause for concern regarding Daniel's health and welfare. Indeed, the department's message was that the defendant should keep Daniel home from school in the very conditions that the same state of Connecticut, through its criminal prosecutorial arm, later charged created an unreasonable risk to his mental health. Although, of course, the law enforcement arm of the state is not bound by a prior determination, express or implied, of the department, from a standpoint of fair notice, the defendant reasonably cannot be expected to make the legal distinction between the two agencies' subject matter jurisdictions. From the viewpoint of the ordinary citizen, it is not fair, and does not comport with adequate notice, for the state to say, in effect, we have no concern for Daniel's health by virtue of his living conditions, and then to say, but we will prosecute the defendant criminally for maintaining those same living conditions.