

JAMES ALLEN CODDINGTON, Appellant -vs- STATE OF OKLAHOMA, Appellee

Case Number: D-2003-887

COURT OF CRIMINAL APPEALS OF OKLAHOMA

2006 OK CR 34; 142 P.3d 437; 2006 Okla. Crim. App. LEXIS 35

August 16, 2006, Decided

JUDGES: OPINION BY: C. JOHNSON, J. CHAPEL, P.J.: CONCURS, LUMPKIN, V.P.J.:
CONCURS IN PART/DISSENTS IN PART, A. JOHNSON, J.: CONCURS, LEWIS, J.:
SPECIALLY CONCURS.

OPINION BY: C. JOHNSON

OPINION: C. JOHNSON, JUDGE:

Appellant, James Allen Coddington, was convicted by a jury in Oklahoma County District Court, Case No. CF 97-1500, of First Degree Murder, in violation of 21 O.S.Supp.1996, § 701.7 (A) (Count 1) and of Robbery with a Dangerous Weapon, in violation of 21 O.S.1991, § 801 (Count 2). Jury trial was held before the Honorable Jerry D. Bass, District Judge, on April 21st - May 1st, 2003. On Count 1, the jury found the existence of two aggravating circumstances: (1) the defendant was previously convicted of a felony involving the use or threat of violence, n1 and (2) the murder was especially heinous, atrocious, or cruel. The jury set punishment at death on Count 1 and life imprisonment without the possibility of parole on Count 2. Judgment and Sentence was imposed in accordance with the jury's verdicts.

Coddington gave timely notice of his intent to appeal the convictions and sentences. The record on appeal was completed September 3, 2004. Coddington filed his Brief of Appellant on November 8, 2004, and the State filed the Brief of Appellee on March 8, 2005. Coddington filed a Reply Brief on March 28, 2005. This matter was originally set for oral argument [**3] on October 18, 2005. At Coddington's request, oral argument was rescheduled and was subsequently held on November 8, 2005. The parties each filed supplemental authorities on November 18, 2005.

In early March of 1997, Appellant, a cocaine addict, suffered a relapse and began using cocaine again. He estimated he spent one thousand dollars (\$ 1000.00) a day to support his habit. Within a short time, he was desperate for money and robbed a convenience store on March 5, 1997 to feed his habit. The robbery did not yield enough money, so Coddington went to his friend Al Hale's home to borrow fifty dollars (\$ 50.00).

Hale, then 73 years old, worked with Coddington at a Honda Salvage yard. Hale had previously loaned Coddington money and had also contributed towards Coddington's previous drug

treatment. Hale's friends and family knew he kept a large amount of cash at his home. On March 5, 1997, he had over twenty-four thousand dollars (\$ 24,000.00) stashed in his closet.

Coddington went to Hale's home on the afternoon of March 5, 1997 to borrow money, because he had been on a cocaine binge for several days and needed money for more cocaine. Coddington watched television with Hale for an hour or two and then smoked crack cocaine in Hale's bathroom. Hale knew Coddington was using cocaine again. Hale refused to give him money and told him to leave. As he was leaving, Coddington saw a claw hammer in Hale's kitchen, grabbed it, turned around and hit Hale at least three times with the hammer. Coddington believed Hale was dead, so he took five hundred twenty-five dollars (\$ 525.00) from his pocket and left. Following the attack on Hale, Coddington robbed five more convenience stores to get money for cocaine.

Oklahoma City police detectives arrested Coddington on March 7, 1997, outside of his apartment in south Oklahoma City. Coddington told one officer he had been on a cocaine binge. On the way to the police department, Coddington tried to choke himself by wrapping the seat belt around his neck. He also stated he wanted to die. At the police station, during an interview with a robbery detective and a homicide detective, Coddington confessed to the convenience store robberies and also to the murder of Mr. Hale. He admitted he struck Mr. Hale in the head with a claw hammer and believed Hale was dead when he left. At trial, Coddington admitted he murdered Hale. He testified he did not go to Hale's house with the intent to do anything except borrow money to buy more cocaine. He said he did not have a weapon with him, did not intend to rob Hale, and did not intend to kill him.

Ron Hale, the victim's son, discovered Hale after the attack on the evening of March 5, 1997. There was blood and blood spatter everywhere. Hale was lying in his bed, soaked in blood, still breathing but unable to speak. Hale was transported first to Midwest City Hospital and then to Presbyterian Hospital. He died approximately twenty-four hours later. An autopsy showed Hale died from blunt force head trauma. The medical examiner testified he sustained at least three separate blows to the left side of his head, consistent with being hit in the head with a claw hammer. He also testified Hale had defensive wounds.

Coddington admitted that he did not call the police when he left Hale's house because he did not want to get caught. He also admitted he had prior felony convictions.

JURY ISSUES

Coddington argues the trial court's limitations on the testimony of Dr. J.R. Smith deprived him of his Fifth, Sixth, and Fourteenth Amendment rights to present a defense and confront the State's evidence. Prior to trial, the State filed a Motion in Limine to prohibit the defense expert from testifying that Coddington could not have formed the requisite intent of malice aforethought due to his cocaine intoxication. At trial, prior to the examination of the expert defense witness, the trial court sustained the State's Motion in Limine * * * and instructed defense counsel that its expert could "suggest the inferences the jury should draw from the application of his specialized knowledge . . . as long as he refrained from merely telling the jury what result to reach." Following the trial court's ruling, defense counsel [objected] and * * * [t]he defense made the following offer of proof in response to the trial court's ruling:

If permitted to testify as to the effect of James Coddington's cocaine addiction and his ability to form malice aforethought Dr. Smith would testify that on 5 March in his opinion that to a reasonable degree of medical certainty James Coddington would not have been able to form the intent of malice aforethought and that he would have been experiencing the effects of the cocaine to such a degree that the brain would be unable to formulate that specific intent * * * *

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact. 12 O.S.2001, § 2704. "Any properly qualified expert testifying in accordance with the standards governing admissibility of expert testimony may offer an opinion on the ultimate issue if it would assist the trier of fact." * * * * "While expert witnesses can suggest the inferences which jurors should draw from the application of specialized knowledge to the facts, opinion testimony which merely tells a jury what result to reach is inadmissible." * * * * "[W]here the normal experiences and qualifications of laymen jurors permit them to draw proper conclusions from the facts and circumstances, expert conclusions or opinions are inadmissible." * * * *

The normal experiences and qualifications of laymen jurors likely do not provide an understanding of the effects of cocaine intoxication on one's ability to control behavior, to think rationally, and to form an intent to kill. An expert's opinion on the effects of cocaine intoxication would have been helpful to the trier of fact. While Dr. Smith could not, under our case law, tell the jury what result to reach, Dr. Smith could properly have testified that, in his expert medical opinion, Coddington would have been unable to form the requisite malice. Such testimony would not "simply have told the jury what result to reach." Experts for the State routinely testify to conclusions drawn from their specialized knowledge even on ultimate issues. * * * *

Here, Coddington raised sufficient evidence for the trial court to instruct the jury on his defense of voluntary intoxication. When a defendant raises the defense of voluntary intoxication, an expert may properly offer his or her opinion on whether the defendant's actions were intentional. Dr. Smith could have properly testified that, in his opinion and based upon his specialized knowledge, he believed Coddington would have been unable to form the requisite deliberate intent of malice aforethought. The trial court erred and abused its discretion by sustaining the Motion in Limine and so limiting the expert witness' testimony. * * * *

Dr. Smith testified about Coddington's family history, his medical history, and his history of drug use. He testified about the properties of cocaine and about the effects of cocaine in general upon the body and the brain. He testified about cocaine addiction, how it happens quickly, and how certain people, like Coddington, are more vulnerable to it. He testified that Coddington was a cocaine addict. He testified how cocaine affects the part of the brain one thinks with, how it affects what one does, one's ethics, one's judgment, how one behaves, and how one makes decisions. Seemingly the only thing his testimony did not cover was how cocaine intoxication might have affected Coddington on March 5, 1997, based upon his examination of Coddington's medical and drug abuse history, upon his observation of the videotaped confession, and based upon his prior experience and studies of cocaine addicts and addiction. On one hand, the jury heard testimony from Dr. Smith which would have been helpful to its consideration of Coddington's voluntary intoxication defense; on the other hand, the absence of the expert's opinion on Coddington's ability to specifically intend to commit the homicide was notable.

* * * *

The trial court clearly erred by limiting the testimony of Dr. Smith on the issue of Coddington's ability to form malice and Coddington's conviction cannot stand unless we find the error was harmless beyond a reasonable doubt. See *Chapman v. California*, 386 U.S. 18, 87 S.Ct. 824, 17 L.Ed.2d 705 (1967). Such testimony, while helpful to the jury and certainly material, was not exculpatory in the sense that it would have exonerated the defendant; but, if believed by the jury, the evidence certainly might have reduced the degree of homicide for which Coddington was convicted.

The exclusion of Dr. Smith's expert opinion testimony relating to Coddington's specific ability to form the requisite intent for malice murder did not prevent Coddington from putting forth significant evidence relating to cocaine intoxication. Dr. Smith testified extensively about the effects of cocaine addiction and intoxication on the brain, on decision-making and behavior. The evidence in this case was overwhelming, and we find, beyond a reasonable doubt, that Dr. Smith's expert opinion on the ultimate issue of whether Coddington could form the requisite malice would not have made a difference in the jury's determination of guilt. We find the error was harmless beyond a reasonable doubt. *Chapman v. California*, 386 U.S. 18, 24, 87 S.Ct. 824, 828, 17 L.Ed.2d 705 (1967).

* * * *

DISSENT:

LUMPKIN, VICE-PRESIDING JUDGE: CONCUR IN RESULT/DISSENT IN PART

* * * * First, I cannot agree with the confusing analysis used concerning . . . expert testimony on the ultimate issue. * * * *

For purpose of clarity, I reiterate here that Standard 7-6.6 of the American Bar Association Criminal Justice Mental Health Standards provides that "[o]pinion testimony, whether expert or lay, as to whether or not the defendant was criminally responsible at the time of the offense charged should not be admissible." Furthermore, the commentary to that standard provides that an "expert witness should not be permitted to express opinions on any question requiring a conclusion of law or a moral or social value judgment properly reserved to the court or to the jury." And later, that same commentary indicates that "[t]erms like premeditation, malice, and provocation have technical legal meanings concerning which mental health or mental retardation professionals can pretend no expertise."

Accordingly, I have no qualms with the trial court's in limine ruling that prevented the defense expert from testifying as to Appellant's inability to develop the requisite mens rea. That issue was ultimately for the jury to decide. In addition, psychological testimony is totally subjective and not provable with objective evidence. It is educated speculation at best. For that reason, we have previously limited such testimony to educating the jury regarding the nature of the proffered mental health issue from which the jury could then render its decision based on the facts of the crime. In this case, Appellant's ability to remember and relate the facts of the crime carry great weight in disproving that proffered opinion. In addition, Appellant admitted he knew what he had done and it was wrong.