

CRIMINAL LAW

State v. Cazares-Mendez, 256 P.3d 104 (2011)
Supreme Court of Oregon

PROCEDURAL POSTURE (History of the Case):

Defendants Jose Guadalupe Cazares-Mendez and Jorge Reyes-Sanchez were convicted of aggravated murder in death of Jessie Valero. Both were convicted in Circuit Court. Both appealed to Court of Appeals where they were reversed and remanded. Then the state petitioned the Oregon Supreme Court for review in both cases, thus they were put together in front of the Oregon Supreme Court.

FACTS

The victim, Jessie Valero, was found dead in her Hillsboro apartment on March 17, 2005. She died from approximately 29 stab wounds. The contents of her jewelry box had been dumped out on the bed. There was also a red bicycle in the apartment that did not belong to the victim.

There were three defendants in the original case. The third, Jose Lugardo-Madero, testified against the other two. He testified that on March 15th, 2005, the three of them were trying to get methamphetamine. He went with the other two defendants to Valero's apartment planning to break in and steal her jewelry. Defendant Reyes-Sanchez had with him the red bicycle that was later found. Lugardo-Madero refused to go inside the apartment and waited outside. Later, he heard noises from the apartment and ran away. About two hours later, Cazares-Mendez went to where Lugardo-Madero was staying. He showered and washed his clothes there. About two hours after that, Reyes-Sanchez arrived. Then, both defendants left.

Lugardo-Madero testified that a week or so later, he saw Cazares-Mendez who admitted that he and Reyes-Sanchez killed Valero and threatened to kill him if he told anyone.

Both Reyes-Sanchez and Cazares-Mendez were indicted on two counts of aggravated murder, three counts of murder, one count of first-degree robbery and one count of first-degree burglary. Both trials started in early 2007. In their separate trials, both defendants attempted to offer evidence that another person, Tiffany Scherer confessed to the crime. They had the testimony of four witnesses stating that Scherer had admitted to committing the murder. In both cases, the trial courts refused to allow this hearsay evidence. Trial court found in both cases that the evidence lacked the required circumstantial guarantees of trustworthiness for either hearsay exception.

At the conclusion of both trials, defendants were convicted on all counts. The jury spared the death penalty and each were sentenced to life without parole.

Both of the defendants appealed to the Court of Appeals, which reversed both cases. The court ruled on Cazares-Mendez's case first. Relying on Chambers, they found that the statements had "considerable assurance of reliability", as the multiple confessions corroborated each other. The court also determined that the error was not harmless and thus reversed and remanded for a new trial. Reyes-Sanchez also got a new trial for many of the same reasons.

HANDOUT QUESTIONS

1. What are the issues in this case?
 - a. What is the state arguing?
 - b. What is the defendant(s) arguing?
2. If you were the state, what arguments would you make to win this case?
3. If you were the defendant(s), what arguments would you make sure the ruling of the Court of Appeals is upheld?
4. If you were the Oregon Supreme Court, how would you rule?
5. After reading the case, answer the following questions:
 - a. How did the Oregon Supreme Court actually rule?
 - b. What reasons did the court give for its ruling?
 - c. Do you agree or disagree with the court's ruling? Why?
 - d. Do you think your decision was better than the court's ruling? Explain.

ISSUE(S):

1. What do the hearsay exceptions mean by “trustworthiness”? Does it mean that the credibility of the witnesses should be included in determining trustworthiness of their statements?
2. Does barring the admission of hearsay statements that another person confessed to the crime violate the defendant’s rights under Due Process Clause?

WHAT HAPPENED AT TRIAL?

During their separate trials, the court refused to allow hearsay evidence from four different witnesses that another person, Tiffany Scherer, stated that she had committed the murder. Both trial courts convicted the defendants.

HOW DID THIS CASE REACH OREGON SUPREME COURT?

The State appealed to the Court of Appeals. The Court of Appeals held that the trial court erred in withholding the hearsay evidence and reversed and remanded both cases. The State then petitioned for the Oregon Supreme Court to hear both cases. The Oregon Supreme Court treated both cases in this opinion.

ARGUMENTS:

Defendant(s) argument:

1. Both defendants argued that the witnesses’ testimony should be allowed in under a hearsay exception. (They used two different hearsay exceptions.)
2. They also argued that even though the Scherer is available to testify, it would violate due process to prohibit trustworthy evidence just because she was available.
3. Defendant Cazares-Mendez asserts that trustworthiness of the hearsay testimony is clearly indicated by corroborating circumstances. Not only were there multiple witnesses corroborating Scherer’s confession but Scherer’s confession also corroborated some details of the crime (i.e. epilepsy).

State’s argument:

1. The State asserts that the courts can and should consider credibility (including their criminal history and their delay in disclosing statements to authorities) of the witnesses in determining whether their statements are trustworthy.
2. The state also concludes that Scherer testified and denied the statements, which the trial court found her to be more credible than the witnesses.
3. The state argues that due process is not violated because the unavailability policy indicates a preference for live testimony by witnesses.

WHO WON?

Defendants won. The court upheld the ruling of the Court of Appeals and reversed the judgments of the circuit court and remanded both cases. Circuit court must handle further proceedings.

HOW THE COURT EXPLAINED ITS DECISION

The court determined that the state misunderstood trustworthiness. It is not relevant to the witnesses who testify but to whether the statement made by Scherer was sufficiently reliable. The court also determined that case law confirmed that the witness's credibility is not part of the court's determination on whether statement is hearsay. The court asserted that the trial court is not to assess the credibility of the witness to the hearsay statement and thus reject the state's arguments. The court points out that the delay in the witnesses' reports to authorities is irrelevant, as is the witness's drug use. The court reviewed the "ultimate legal conclusion[]" as to whether the hearsay statement is admissible under an exception to the hearsay rule" for errors of law.

The court ruled that the hearsay statements should have been admitted. The court concluded that the witnesses' statements corroborated each other and that the confession itself corroborated many details of the crime.

The court states that the unavailability of Scherer would make the hearsay testimony more reliable not less reliable because Scherer could clarify or refute it in her testimony.

APPLICATION

1. Two concepts from this ruling:
 - a. This ruling is significant because it established that in some cases hearsay of a confession is admissible because the multiple testimonies corroborate each other and some information in the confessions corroborate the facts of the case.
 - b. This ruling stated that "trustworthiness" of the hearsay exception is not related to the credibility of the witness but to the credibility of the statement and whether it is sufficiently corroborated.
 - c. This ruling also concluded that the constitutional issue of Due Process requires the admission of hearsay statements that another person confessed to the crimes with which the defendants were charged. The admission cannot be prohibited on the grounds that the declarant was available to testify because her testimony makes the hearsay more reliable because she can clarify or refute it in court.
2. Create a list of situations where there are witnesses willing to testify and determine how this court would rule. Allow the hearsay evidence or not allow it?
 - a. A homeless man sees a man running out of a store and jump into a car. He drives away quickly and yells, "I wish I had a getaway driver!" The

homeless man offers to testify about what the man yelled to prove that the man robbed the store.

- b. A bus driver and 3 passengers see a man snatch an elderly woman's purse as she was getting on the bus. He knocks her down and trips and scrapes his hands. Later, his girlfriend asks what happened to his hands. He tells her, "The lady knocked me off balance when I jerked her purse away." That night, he also tells his best friend and uncle that he stole a lady's purse. Who should be allowed to testify as to the hearsay evidence? Is there corroboration? Is it enough?

- c. A young woman and her 2 girlfriends make a plan to break into a jewelry store. They use a crowbar to break the glass on the storefront. One girl cuts her hand in the process. She tells her mother, brother and best friend that she cut it when she dropped a glass bowl in the kitchen sink. Should the mother, brother and best friend be allowed to testify as to the hearsay evidence? Would you believe this story as a jury? What would this court rule? What if there are other witnesses that testify that she was wearing jewelry from the heist two days after the break in? What if the mother, brother and best friend have a reputation for lying to cover up the crimes she commits?