

Summary of SC93851, *State of Missouri v. Sylvester Porter*

Appeal from the St. Louis circuit court, Judge Timothy J. Wilson
Argued and submitted May 6, 2014; opinion issued July 29, 2014

Attorneys: Porter was represented by Amy E. Lowe of the public defender's office in St. Louis, (314) 340-7662; and the state was represented by Evan J. Bucheim of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals his convictions for statutory sodomy. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri affirms the judgment. In so doing, the Court abolishes two court-created rules – the “corroboration rule,” which has applied to cases involving sex crimes, and the “destructive contradictions doctrine” – that both improperly required appellate courts to engage in credibility determinations that are the province of the triers of fact. Instead, the Court applies the general standard of review applicable to challenges to the sufficiency of the evidence to support a criminal conviction. The evidence is sufficient to support the jury's finding that the man committed sodomy, and the jury resolved inconsistencies in the child victim's testimony in context of other evidence on the record.

Facts: The state charged Sylvester Porter with two counts of first-degree statutory sodomy and one count of first-degree child molestation for his actions involving the three-year-old daughter of one of the tenants of the rooming house he operated and where he also lived. The child, who was five years old at the time of trial, testified about Porter touching her vagina. During her testimony, she first said Porter did not touch her and then said he did touch her. The jury convicted Porter of all three counts. Porter filed motions for judgment of acquittal on all three counts, arguing the child's testimony was contradictory and uncorroborated and, therefore, there was insufficient evidence to support the convictions. The trial court sustained Porter's motion as to the molestation conviction but upheld the sodomy convictions. Porter appeals.

AFFIRMED.

Court en banc holds: (1) The “corroboration rule” and “destructive contradictions doctrine” – both of which improperly require appellate courts to act as finders of fact – are abolished. This Court will use neither to review Porter's convictions but rather will review the evidence using the generally applicable standard of review.

(a) In reviewing the sufficiency of evidence supporting a criminal conviction, an appellate court is limited to determining whether there is sufficient evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. All evidence and inferences favorable to the state are accepted as true, and all evidence and inferences to the contrary are rejected. Generally, a witness's testimony is sufficient evidence to sustain a conviction, and the trier of fact determines credibility issues.

(b) In cases involving sex crimes, however, Missouri courts have created a “corroboration rule” providing that, when the crime victim’s testimony is contradictory or not convincing, corroboration is required. This rule, however, suffers from at least two fundamental defects warranting its abolition. First, the rule requires an appellate court to engage in credibility determinations that are the province of the trier of fact. But the standard of review requires appellate courts to defer to factual determinations because the trier of fact, whether a jury or a judge, is in a better position to judge not only the witness’s credibility but also their sincerity and character. Rather than second-guessing the trier of fact, Missouri courts simply should abide by the well-established standard of review. Second, because the corroboration rule applies only to sex crimes, it necessarily is premised on two unsupported assumptions: that the testimony of sex crimes victims is inherently less credible than the testimony of other crime victims; and that judges and juries are uniquely unable to make accurate factual determinations in sex crimes cases. The corroboration rule is abolished in Missouri. Missouri appellate courts reviewing the sufficiency of the evidence to support a conviction for a sex crime, as in all other criminal cases, will review challenges pursuant to the generally applicable standard of review.

(c) The “destructive contradictions doctrine” provides that a witness’s testimony loses probative value when the witness’s statements at trial are so inconsistent, contradictory and diametrically opposed to one another that they rob the testimony of all probative force. Although this doctrine is not limited to cases involving sex crimes, it still requires appellate courts to engage in credibility determinations that properly are left to judges and juries sitting as triers of fact.

(2) Viewed, as it must be, in the light most favorable to the state, there was sufficient evidence on the record to support the jury’s finding that Porter committed statutory sodomy. The inconsistencies in the child’s testimony do not render the evidence insufficient. This Court previously has recognized that the trier of fact is in the best position to resolve inconsistent testimony by the child victim of a sex crime. The child’s testimony that Porter touched her genitals was consistent with out-of-court statements admitted into evidence pursuant to state law, and there was evidence the child told her mother that Porter had touched her and that the child contemporaneously refuted Porter’s denial by stating that Porter had touched her vagina. The jury resolved the inconsistencies in the context of evidence that placed the child alone, in a compromising position, with a shirtless Porter in his room and that Porter was engaging in activity the child’s grandmother witnessed and described in terms consistent with oral sex.

(3) Because Porter did not object to or develop a factual record showing the extent of the jury’s review of a videotaped forensic interview of the child, his argument that the jury should not have had access to this videotape during its deliberations lacks merit.