



IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
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| ISAAC JOHNSON, |) | |
| |) | |
| Defendant-Below, |) | |
| Appellant |) | |
| |) | |
| v. |) | No. 319, 2024 |
| |) | |
| STATE OF DELAWARE |) | |
| |) | |
| Plaintiff-Below, |) | |
| Appellee. |) | |

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

APPELLANT'S OPENING BRIEF

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DATED: December 30, 2024

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NATURE AND STAGE OF THE PROCEEDINGS

Isaac Johnson was charged, by way of a reindictment following defendant's motion for a bill of particulars, with rape first degree, three counts of sex abuse of a child by a person in position of authority or supervision and six counts of unlawful sexual contact first degree.¹

Well before trial, defendant moved for a competency evaluation. However, because Johnson chose not to cooperate with the State's doctor and as a result of his letter asserting that no such evaluation is necessary, the judge concluded he was competent² and he subsequently had a four-day jury trial.

At trial, the State introduced Johnson's statement to police and the complainant's statement to the Child Advocacy Center. Johnson testified, denying the allegations and asserting that the allegations were fabricated. However, upon request by the State, and over defense counsel's objections, he was prevented from providing the jury with an explanation of the motive for lodging a false complaint.³ The jury found Johnson guilty of all counts. He was sentenced to 63 years in prison followed by probation.⁴ This is his Opening Brief in support of a timely-filed appeal.

¹ A11.

² A5.

³ Oral Decision Excluding Defendant's Testimony, Ex.A.

⁴ July 19, 2024 Sentence Order, Ex. B.

SUMMARY OF THE ARGUMENT

1. L.F. alleged that Johnson unlawfully engaged in sexual conduct with her. As with all criminal offenses, the State had the burden to prove, beyond reasonable doubt, all the elements of the charges in order to obtain a conviction. Here, the jury convicted Johnson of all charges based solely on a credibility contest. Accordingly, any evidence explaining the motive for L.F. or her parents to make false allegations was probative and outweighed any danger of unfair prejudice. Nonetheless, the trial court denied Johnson the right to present such evidence at the State's request and over defense objection. Thus, exclusion of his testimony requires his convictions to be reversed.

STATEMENT OF FACTS

Marie Smith, (“Smith”), met Isaac Johnson, (“Johnson”), in early 2021 after she listened to Johnson’s on-line audio broadcast on the topic of astrology.⁵ She then began to follow, on Instagram, Johnson and other members of a group interested in astrology. At her request, Johnson performed an astrological reading for her. The two then began communicating on a regular basis.⁶ By the summer of 2021, they were romantically involved. Johnson lived in Georgia and Smith lived in Delaware. So, around June or July of 2021, the couple met in North Carolina multiple times.⁷

While the specific date is in dispute, it was sometime that fall when Johnson moved in with Smith, her 7-year-old daughter, (“L.F.”),⁸ and other members of her family, including Smith’s mother, “Mama Marie.”⁹ The reason for the move is also in dispute. Johnson told the jury that Smith asked him to move in with the intent that the couple could save money and buy a

⁵A90-92.

⁶ A18-21.

⁷ A22-23, 92-93.

⁸ Consistent with Del. Sup. Ct. R. 7 (d), Appellant has assigned a pseudonym to the complainant.

⁹ A92-93.

house or land together.¹⁰ Smith, on the other hand, claimed that Johnson moved in because he had lost his apartment.¹¹

Because Smith's home was crowded with family, she, Johnson and L.F. lived in the basement together. They enjoyed a living area, a bathroom and a bedroom in that space. While Johnson and Smith slept in one bed together, L.F. slept in a bed next to them.¹² The remaining family members lived primarily on the second floor of the house.¹³

At trial, Smith testified that by January 2022, she had grown somewhat weary as Johnson was sitting around the house and did not have a job.¹⁴ At trial, Smith and Mama Marie agreed that Johnson was helpful and communicated nicely with L.F. In fact, Smith never had concerns about his relationship with L.F.¹⁵

During the day, L.F. primarily stayed on the first floor while she attended school "on-line" under Mama Marie's supervision. Conversely, Johnson either remained in the basement or went out of the house.¹⁶ While Mama Marie claimed that L.F. was restricted from going to the basement,

¹⁰ A92-93.

¹¹ A24-25.

¹² A16.

¹³ A17.

¹⁴ A27-28.

¹⁵ A25.

¹⁶ A26, 94.

Johnson and L.F. agreed that she essentially had free rein of the house and often visited the basement during the day.¹⁷

One weekend in February, 2022, Smith and Johnson went to North Carolina to celebrate Smith's birthday. They returned home on February 8, 2022.¹⁸ The next day, Smith went back to work at Hand and Stone where she was a massage therapist.¹⁹ She claimed the couple had plans to meet during the day to go grocery shopping but Johnson failed to show up. This upset Smith because she had to go shopping after work and that resulted in her arriving home later than usual.²⁰

Johnson told the jury that there were no plans to meet that day. He also stated that he was out of the house that day until about 3 p.m. or 4 p.m.²¹ He claimed that when he got home, L.F. was in the basement downstairs talking to her dad on FaceTime.²² Apparently, she had gone downstairs after her online classes, unbeknownst to her grandmother.²³ For her part, Mamma Marie did not know whether or not Johnson was home.

¹⁷ A70-71,95-96.

¹⁸ A32.

¹⁹ A31.

²⁰ A28-30.

²¹ A95-96.

²² A96.

²³ A62.

Johnson overheard part of L.F.'s call with her father.²⁴ At one point, she asked her father to take her to an ice cream place to which he had taken her the other day.²⁵ Because Johnson was unaware of any recent visits from L.F.'s father, he inquired about it after the call ended.²⁶ L.F. told him that she went with mommy and daddy to get ice cream the other day while Johnson was out of town.²⁷

After their discussion, Johnson and L.F. hung out together with the dog in the living area until Smith came home from work. Johnson was clear, neither of them went into the bedroom.²⁸ Meanwhile, Mama Marie remained upstairs.²⁹ While Smith claimed she did not get home that night until about 8:30 p.m.,³⁰ Johnson testified that she actually arrived at some point between 6:30 p.m. and 7:00 p.m.³¹

Smith testified that when she got home that night, she found L.F. downstairs performing gymnastic flips while Johnson sat on the couch. She

²⁴ A97.

²⁵ A97.

²⁶ A98, 103.

²⁷ A103.

²⁸ A98.

²⁹ A100.

³⁰ A28-29.

³¹ A98-99.

observed no abnormal or unusual behavior. Smith instructed L.F. to get ready for bed. LF went into the bathroom to do as she was told.

While L.F. was in the bathroom, Smith and Johnson began a heated discussion. Smith claimed their talk centered around his failure to meet her as planned. However, Johnson told the jury that the topic was her visit with her “ex,” L.F.’s father, for ice cream. This was a subject of concern, Johnson noted, because there had been issues regarding infidelity in the past.³² Smith acknowledged that from time to time, she had private clients at the house upon whom she performed Reiki therapy.³³ However, she denied there had ever been any infidelity issues in their relationship.

According to Smith, L.F. called her into the bathroom while she and Johnson were talking. L.F. purportedly told her that her “pee pee stings.” Smith assumed that this was the result of poor hygiene or soap irritation. So, she instructed L.F. on how to properly clean herself then returned to the living area to continue her discussion with Johnson.³⁴ At trial, Johnson disputed that this interruption ever occurred.³⁵

³² A103-104, 114-115.

³³ A50-51.

³⁴ A33-34.

³⁵ A102.

Eventually, Smith took L.F. to bed then returned to the living area to work on her computer. She testified that Johnson went to bed around 9:30 p.m., unusually early for him. Yet, she acknowledged that he was not acting abnormal or odd. She continued to work on the computer while the bedroom door remained open.³⁶ Johnson told the jury that the couple's discussion continued after L.F. went to bed. Ultimately, Smith joined Johnson in bed between 11:00 p.m. and 12:00 a.m. then fell asleep.³⁷

Smith claimed that Johnson later woke her up and said, "I'm afraid." When she asked him what he meant, he said that he was afraid of children and that he may have touched L.F.³⁸ Johnson denied saying these things.³⁹

In her testimony, Smith said that, upon hearing Johnson's purported statements, she jumped out of bed, woke up L.F., took her to the bathroom and put cold water on her face. Smith claimed that she then asked L.F. what she meant earlier when she said that her "pee pee stings." L.F. purportedly told her that Johnson had rubbed his "pee pee" on her "pee pee." Smith then rushed her upstairs to Mama Marie. Meanwhile, Johnson remained calm.⁴⁰

³⁶ A35-36.

³⁷ A35-37.

³⁸ A37.

³⁹ A114-115.

⁴⁰ A111-112.

Mama Marie claimed that she quizzed L.F. about her statement to Smith. L.F. purportedly responded, without detail, that Johnson had rubbed his “pee pee” on her “pee pee.”⁴¹ In the meantime, Smith had gone back downstairs to confront Johnson. He responded that he did not know what she was talking about.⁴² Johnson explained to the jury that the real reason Smith was angry was that he called her some “type of crazy thing” during their dispute over her relationship with L.F.’s father.⁴³

By all accounts, the rest of the early morning hours were chaotic.⁴⁴ Smith claimed that Johnson initially appeared lost and confused when she confronted him. She then told him to leave the house. Johnson initially refused to leave and, according to Smith, he mentioned suicide.⁴⁵ She claimed that he became aggressive and allegedly “yoked her up.”⁴⁶ Mama Marie came downstairs briefly but did not see signs of any type of assault.⁴⁷

Johnson eventually told Smith that he would leave. However, Smith took his phone and keys because, she claimed, he kept a gun inside his car.⁴⁸

⁴¹ A56-57.

⁴² A45.

⁴³ A105.

⁴⁴ A39-40.

⁴⁵ A47, 54-55.

⁴⁶ A46.

⁴⁷ A39-40, 57-58, 63-64, 105.

⁴⁸ A46.

She went upstairs and locked him in the basement⁴⁹ to prevent him from leaving.⁵⁰ Smith then cleared away sharp objects and knives in the kitchen. Yet, she acknowledged that Johnson never threatened to use any weapons.⁵¹

Smith told the jury that Johnson was able to make his way out of the basement.⁵² He heard her call the police and he allegedly became aggressive and pulled a knife out of the kitchen sink that Smith apparently missed.⁵³ Johnson explained to the jury that he became upset because she handed him the phone with someone from either a crisis hotline or 911 on the other end who asked whether he wanted to kill himself.⁵⁴

Smith and her mother each testified that when police finally arrived, Johnson's demeanor changed and he calmed down. Mama Marie said that, as police removed him from the house,⁵⁵ he repeatedly said, "I'm sorry" to L.F.⁵⁶

During the entirety of Smith's interactions with police that morning, she never mentioned any complaint by L.F. that Johnson had touched her unlawfully.⁵⁷ Instead, she called L.F.'s father in New York. He instructed her

⁴⁹ A47-48.

⁵⁰ A55.

⁵¹ A37-39, 46-47.

⁵² A48.

⁵³ A48-49, 59.

⁵⁴ A116.

⁵⁵ A42.

⁵⁶ A59.

⁵⁷ A43, 60.

to wait for him before relaying the claim to police.⁵⁸ So, she went to work and L.F. stayed home with Mama Marie.

At trial, L.F. testified that after her father arrived that evening, he took her out to eat.⁵⁹ She indicated that he asked her questions about what happened the prior night. This testimony contradicted Mama Marie's claim that L.F. and her father did not spend time together outside her presence.⁶⁰

When Smith came home from work, she, L.F. and L.F.'s father all went to the police station. However, they were told to come back the next day because the officer handling their case was unavailable. Thus, it was not until February 11th that Smith finally relayed L.F.'s purported claim to police.⁶¹

During the subsequent investigation, police discovered no physical evidence supporting L.F.'s claim.⁶² After a forensic nurse physically examined L.F., she concluded that there "were no specific physical findings consistent with abuse."⁶³ Various items police seized from Smith's house

⁵⁸ A42.

⁵⁹ A43-44.

⁶⁰ A65, 72-73.

⁶¹ A61.

⁶² A80-81.

⁶³ A75.

were tested.⁶⁴ None of Johnson's DNA was detected⁶⁵ and tests for the presence of seminal fluid were negative.⁶⁶

On February 14, 2022, LF was interviewed at the Child Advocacy Center.⁶⁷ She provided a statement in response to leading questions of a trained investigator who reaffirmed her answers by repeating them.⁶⁸ In her statement, L.F. claimed that on February 9th, Johnson not only rubbed his "pee pee" on her "pee pee," but that his "pee pee" went inside her "pee pee." She also alleged that awhile ago, but during the "winter," there were times when she touched Johnson's "pee pee" at his request.⁶⁹

After obtaining L.F.'s statement, police interrogated Johnson.⁷⁰ Sgt. Joshua Stafford repeatedly told him that police knew "it" happened and that Johnson knew "it" happened but was pretending otherwise. He also told Johnson that a professional took L.F.'s statement and that he believed L.F. and her mother. He suggested reasons why Johnson may have engaged in that conduct even though there was no physical evidence supporting the claim.⁷¹

⁶⁴ A74.

⁶⁵ A77.

⁶⁶ A78.

⁶⁷ A66.

⁶⁸ A68-69.

⁶⁹ CAC Interview, Court Exhibit 1. A67.

⁷⁰ Johnson's Statement to Police, State's Trial Exhibit 13.

⁷¹ A76, 79.

Forty-five minutes into the interrogation, Johnson acknowledged that L.F. touched his penis a couple of times.⁷² However, it was not sexual and he told Smith about it when it happened. He further denied the two specific instances Stafford referred to, a time in the bed and a time on the couch.

At trial, Johnson explained that, in his statement, he was referring to the groin area generally.⁷³ He indicated that the touches were inadvertent and not made at his request.⁷⁴ Johnson also explained that there was a time when L.F. may have inadvertently seen him naked when he and Smith were having sex while L.F. was in her bed, presumably asleep.⁷⁵ Smith claimed the couple was never intimate while L.F. was in the room.⁷⁶ Johnson also stated that there was a time when L.F. came into the bathroom as he got out of the shower. However, he believed he had his boxers on at the time.⁷⁷

Johnson testified that he never touched L.F., he never rubbed his penis on her private area, he never caused her to touch his penis, and he never made the purported spontaneous statement to Smith.⁷⁸

⁷² A119-120.

⁷³ A121.

⁷⁴ A122.

⁷⁵ A117.

⁷⁶ A41.

⁷⁷ A117.

⁷⁸ A118.

I. THE TRIAL COURT ABUSED ITS DISCRETION AND DENIED ISAAC JOHNSON HIS RIGHT TO TESTIFY AND RIGHT TO PRESENT A DEFENSE WHEN IT PREVENTED HIM FROM EXPLAINING THE MOTIVE FOR THE COMPLAINANT OR HER PARENTS TO LODGE A FALSE ALLEGATION AGAINST HIM.

Question Presented

Whether the trial court abused its discretion and violated Johnson’s right to testify and to present a defense when it prevented him from explaining to the jury the motive for the complainant or her parents to make a false claim against him.⁷⁹

Standard of Review

“This Court reviews a Superior Court's evidentiary rulings for abuse of discretion. Claims that the trial judge violated a defendant's Sixth Amendment right to present a defense are reviewed *de novo*.”⁸⁰

Argument

L.F. alleged that Johnson unlawfully engaged in sexual conduct with her. As with all criminal offenses, the State had the burden to prove, beyond reasonable doubt, all the elements of the charges in order to obtain a conviction.⁸¹ Here, the jury convicted Johnson of all charges based solely on

⁷⁹ A106-111.

⁸⁰ *Williams v. State*, 2014 WL 708445*2 (Del. Feb. 19, 2014).

⁸¹ *Morse v. State*, 120 A.3d 1, 10–11 (Del. 2015) (quoting *Estelle v. McGuire*, 502 U.S. 62, 69 (1991)); 11 Del.C. § 301 (b).

a credibility contest. Accordingly, any evidence explaining the motive for L.F. or her parents to make false allegations was probative and outweighed any danger of unfair prejudice. Nonetheless, at the State's request, and over defense counsel's objection, the trial court denied Johnson the right to present such evidence.

The judge prevented Johnson from explaining that the claim was made in the context of a discussion about Smith's potential infidelity. Johnson had inquired about her recent contact with her "ex," L.F.'s father. Smith never told police about L.F.'s purported claim until after police removed Johnson from the house, she called the father and, by L.F.'s admission, he met with L.F. alone and discussed the purported incident. Significantly, Mama Marie testified inconsistent with L.F.'s testimony and said that L.F. and her father were not together outside of her presence. Given this context and the fact that the trial was a credibility contest, exclusion of Johnson's testimony requires his convictions to be reversed.

Prior to Johnson's exercise of his right to testify on his own behalf, the State asked the judge to issue a ruling deeming irrelevant any testimony about his sex life with Smith, including any deviant sexual behavior he claims typically occurred.⁸² Defense counsel responded that he did not intend to ask

⁸² A82-83.

him about those things but he believed that, if Johnson did go down that road, the judge had little discretion to the extent it could limit Johnson's explanation for a false allegation against him and to respond to facts in the State's case.⁸³

The judge found that such evidence "would be unfairly and highly prejudicial irrelevant." She further noted that Johnson did not mention anything on that subject in his statement to police.⁸⁴ When defense counsel informed the judge that he would not limit Johnson's answer if a question triggered something, the judge responded that she would limit him. She then instructed Johnson directly that "it would be inappropriate to get into these facts if they are facts. I'm just not going to allow this record to be cluttered with that when it's wholly irrelevant I mean the elements of the case are elements of the case right I mean the state knows what it has to prove and show me where the kind of testimony would be relevant."⁸⁵

Johnson responded that he was clear on the court's instructions. But, he also explained that he believed this evidence was relevant to explain why L.F. may have seen him naked.⁸⁶ Defense counsel echoed this concern, asserting that the evidence was relevant to contest testimony from the State's

⁸³ A83.

⁸⁴ A84.

⁸⁵ A85.

⁸⁶ A89.

witnesses regarding him walking around naked.⁸⁷ The State clarified that it was not objecting to testimony rebutting direct statements.⁸⁸

After acknowledging that she was operating in a vacuum, the judge ruled that, as of that point, Johnson was prohibited from discussing that evidence. She opined that as long as he answered direct questions by counsel, there would be no issue.⁸⁹

Johnson then took the stand and began to rebut Smith's version of events.⁹⁰ He never made the purported spontaneous statement that he may have touched L.F. He explained that the couple was not simply quibbling about his failure to meet her to go shopping as Smith claimed. The argument was about her possible infidelity.

Johnson had confronted Smith about the visit she had with L.F.'s father while he was away. There had also been discussion about her having sex with a private massage client.⁹¹ He sought to explain to the jury the legitimacy of his concern and context of their argument.⁹²

⁸⁷ A86.

⁸⁸ A88.

⁸⁹ A87.

⁹⁰ A103.

⁹¹ A105.

⁹² A104.

Johnson's defense was that this confrontation, and not an alleged statement about L.F., was what caused Smith's desire to kick him out and led to the tumultuous events that culminated in Smith relaying L.F.'s purported complaint to police.⁹³ This was significant because during her entirety of her interactions with police that morning, she never mentioned the alleged complaint. Rather, it was not until after she called L.F.'s father and he came and spoke with L.F. alone that any claim of unlawful sexual contact was made to police.

The State objected to this testimony as inappropriate and irrelevant, citing to the judge's earlier ruling.⁹⁴ While defense counsel acknowledged that Johnson had gone beyond the scope of his question, he did believe the evidence was relevant to determine Smith's motive to lie.⁹⁵

When defense counsel explained Johnson's theory with respect to credibility, the judge responded, "she could have just kicked him out on her own, she had to come out up with the idea that our daughter had been molested? I mean come on we are so far afield here."⁹⁶ Then, when defense counsel informed the court that Smith apparently got angry after Johnson

⁹³ A105.

⁹⁴ A106.

⁹⁵ A106.

⁹⁶ A108.

called her a “whore,” the judge stated that he could have testified to that without going into detail.⁹⁷

The judge then limited Johnson’s testimony.⁹⁸ She again spoke directly with Johnson and told him not to discuss any sexual activity of Smith because she is not on trial and this evidence was inflammatory and unfairly prejudicial.⁹⁹ The judge then issued the following “curative instruction,”

disregard the defendant’s statement about the alleged prior sexual behavior of Marie Smith. You are not to consider that statement in you deliberations.¹⁰⁰

Once Johnson’s testimony resumed, it was limited as to the reasoning that Smith got angry that night.¹⁰¹

Johnson’s right to testify in his own defense is rooted in the Constitution's Due Process Clause, Compulsory Process Clause, and Fifth Amendment right against self-incrimination.¹⁰² While the trial court may impose “reasonable restrictions” on a defendant's ability to present relevant evidence,¹⁰³ the “restrictions of a defendant's right to testify may not be

⁹⁷ A109.

⁹⁸ A107.

⁹⁹ A110.

¹⁰⁰ A111.

¹⁰¹ A113.

¹⁰² *Rock v. Arkansas*, 483 U.S. 44, 49–53 (1987).

¹⁰³ *United States v. Scheffer*, 523 U.S. 303, 308 (1998).

arbitrary or disproportionate to the purposes they are designed to serve.”¹⁰⁴

Here, the judge denied Johnson his right to present a defense when she granted the State’s request to limit the presentation of his defense and when it issued an instruction for the jury to disregard a relevant portion of his defense.

The motive for Smith to lie was not evident from the face of the State’s case.¹⁰⁵ And, by the time Johnson testified, the jury heard quite a bit of evidence regarding violence, threats of suicide and other tumult that Smith claimed was a result of his disclosure. Yet, Johnson was not permitted to explain that such events actually resulted from his confrontation of Smith on a potential affair with L.F.’s father.

Not only did Johnson say things to Smith in the context of claims that she was cheating on him, but Smith’s relationship with L.F.’s father was relevant to the credibility of the complaint. When she called police, Smith made no claims regarding L.F. Instead, she called L.F.’s father. He came down from New York. According to L.F., he spent time alone with her

¹⁰⁴ *Rock*, 483 U.S. at 55–56.

¹⁰⁵ *Nappi v. Yelich*, 793 F.3d 246, 252 (2d Cir. 2015) (citing *Corby v. Artus*, 699 F.3d 159, 167 (2d Cir.2012) (concluding “state trial court did not abuse its discretion in limiting [defendant's] cross-examination” because the defendant was otherwise “able to show that [the witness] had a motive to lie to deflect the investigators' attention from herself”)).

discussing the events of the preceding night. It was only after that, and a day after she called police, that L.F.'s claim was relayed to police.

By ordering the jury to disregard Johnson's testimony with respect to Smith's relationship with L.F.'s father, the judge prevented him from allowing the jury to consider whether the claim was made up after Johnson alleged that she was cheating on him with L.F.'s father and whether L.F.'s father may have, because of a relationship with Smith, coached L.F. to lie.

Accordingly, Johnson's right to present a defense was violated and his convictions must be reversed for a new trial.

CONCLUSION

For the reasons and upon the authorities cited herein, Johnson's convictions must be reversed.

Respectfully submitted,

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DATED: December 30, 2024