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DISTRICT II

December 22, 2021

To:

Hon. Jennifer Dorow
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County
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You are hereby notified that the Court has entered the following opinion and order:

2020AP1474-CR State of Wisconsin v. Anthony J. Williams (L.C. #2018CF227)

Before Gundrum, P.J., Reilly and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Anthony J. Williams appeals from a judgment of conviction and an order denying his postconviction motion. He contends that the circuit court erroneously exercised its discretion when it limited the testimony of his expert witness at trial. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

On February 7, 2018, the State charged Williams with one count of threatening to injure another person with intent to extort money as a repeater. According to the complaint, Williams had threatened to kill his mother during a recorded jail call because she had refused to give him money. Williams entered a plea of not guilty by reason of mental disease or defect (NGI), and the matter proceeded to trial.

Williams was found guilty of the charged offense in the guilt phase of his NGI trial. In the responsibility phase, the circuit court prohibited his expert witness, Dr. Kevin Miller, from testifying concerning his opinion that prenatal exposure to certain drugs² “may have contributed to [Williams’] history of special education services, impulse control problems, executive dysfunction, speech and language impairment, and persisting evidence of neurocognitive impairment.” The court concluded that the opinion was speculative.

Ultimately, the jury found that Williams had a mental disease or defect but did not lack substantial capacity either to appreciate the wrongfulness of the conduct or to conform that conduct to the requirements of law. The circuit court subsequently sentenced Williams to three years of initial confinement and three years of extended supervision.

Williams filed a postconviction motion seeking to vacate the judgment and order a new trial. He complained that the circuit court erroneously exercised its discretion when it limited Dr. Miller’s testimony. After a hearing on the matter, the circuit court denied the motion. This appeal follows.

² The drugs were Lamictal, Nicotine, and Klonopin.

A circuit court’s decision to admit or exclude evidence is committed to its sound discretion. *Martindale v. Ripp*, 2001 WI 113, ¶28, 246 Wis. 2d 67, 629 N.W.2d 698. We generally look for reasons to sustain a discretionary ruling. *State v. Chitwood*, 2016 WI App 36, ¶34, 369 Wis. 2d 132, 879 N.W.2d 786.

Here, we are satisfied that the circuit court properly limited Dr. Miller’s testimony at trial. As noted, the testimony at issue was Dr. Miller’s opinion that prenatal exposure to certain drugs “may” have contributed to Williams’ various problems/impairments. The court correctly described this opinion as speculative. Because the opinion was speculative, it was not relevant to either prong of the NGI analysis (i.e., whether Williams had a mental disease or defect and whether he lacked substantial capacity either to appreciate the wrongfulness of the conduct or to conform that conduct to the requirements of law). Accordingly, the court reasonably excluded it. *See* WIS. STAT. § 904.02 (“Evidence which is not relevant is not admissible”).

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals