

When Is Hearsay Relevant?

In State v. Scharf, decided August 11, 2014, the defendant appealed his conviction of first-degree purposeful and knowing murder of his wife. The appeal is based on a claim that the judge erred in admitting hearsay statements made by his late wife's counselor and friends and that this amounted to prejudicial error. In order to understand why there was so much uncertainty in the murder case a brief recount of the events known is necessary. In 1992 the defendant led police to the dead body of his wife which was at the bottom of the Englewood Cliffs in Bergen County. The autopsy found that she was intoxicated at the time of her death. The defendant claimed that himself and his wife were having problems in their marriage and that he had taken her to the cliffs as a romantic getaway in order to reconcile with her. He then claimed that he went to get wine from the vehicle and while doing this his wife fell off the cliff, however he told two different versions of this story. Furthermore both the defendant's son and the brother of his late wife claimed that she was deathly afraid of heights and it was strange that she would have willingly agreed to go to the cliffs. An engineer found it hard to explain the landing location of the body if the death was an accident but there were not alternate explanations either. In 2004 the matter was reinvestigated and the death was declared a homicide.

During the trial hearsay statements were admitted as evidence that claimed the alleged victim was very afraid of her husband, and that she had said if she were to be killed it would be at his hands. The judge admitted these statements in order to determine a motive for the defendant to kill his wife and create the "mosaic" of the case. Additionally the statements of the counselor of the alleged victim were admitted in reliance on N.J.R.E 803(c)(4) as exceptions to the hearsay rule because they were for the purpose of medical diagnoses or treatment. On appeal the defendant claimed these hearsay statements were inadmissible under the "state of mind" hearsay exception and were prejudicial. The Appellate Division agreed. For evidence to be relevant it must prove or disprove a fact of consequence to the determination of the action in some fashion. Hearsay is not evidence but is a statement other than one made by the declarant while testifying at the trial or hearing. In some cases hearsay statements are admitted as evidence of a motive. But a balancing test must be applied that balances the probative value of the hearsay statements against the risk of undue prejudice, confusion of issues to the jurors, risk of misleading the jury, undue delay, or needless presentation of cumulative evidence. Additionally, in order for the "state of mind" exception to apply the prosecution must show that the defendant "probably" knew the facts that are alleged to have been the source of the motive. In the present case the hearsay involves the alleged victim being afraid of her husband, but testimony also revealed that she had been out to dinner with him the night before her death which shows inconsistency in her fear of being out with him. It was also held that her fear had no probative value in this case because it was still very possible that an accident did occur and the State did not present strong evidence to the contrary. The case was reversed and remanded for new trial.