State v. Westlund

2002 | Cited 0 times | Court of Appeals of Iowa | August 28, 2002

Larry Westlund appeals his conviction for murder in the first degree. AFFIRMED.

Larry Westlund appeals his conviction for first-degree murder, in violation of Iowa Code sections 707.1 and 707.2 (1999). He claims the district court erred by excluding evidence of his mental condition. We affirm.

I. Backgrounds Facts and Proceedings.

Westlund was arrested and charged with first-degree murder following the shooting death of his wife, Shelia, in their Des Moines home on June 17, 2000. When he was arrested Westlund admitted shooting Sheila, stating "I have a restraining order on her, she had a knife." A handgun found in Westlund's pocket was later determined to be the gun that was used to kill Sheila. Westlund was also carrying a knife, with which he claimed Sheila threatened him.

Prior to trial the State filed a motion in limine seeking exclusion of any evidence concerning Westlund's mental impairment. The State argued such evidence was not relevant because Westlund did not raise an insanity or diminished responsibility defense. Westlund argued evidence concerning mental impairment was nevertheless relevant to the issues of malice aforethought, deliberation, and premeditation, essential elements of proof for first-degree murder. Iowa Code § 707.1. Westlund's offer of proof on this issue included testimony from Dr. Michael Taylor.

Taylor testified that Westlund was psychotic and delusional when he was examined on July 7, 2000. He also opined that Westlund was most likely psychotic and delusional when he killed Shelia. The district court sustained the State's motion and excluded evidence concerning Westlund's mental condition. Westlund was subsequently convicted, resulting in this appeal.

II. Scope of Review.

In this criminal action, our review is for errors at law. Iowa R. App. P. 6.4. We generally review evidentiary rulings for an abuse of discretion. State v. Rodriquez, 636 N.W.2d 234, 239 (Iowa 2001). An abuse of discretion occurs when the district court exercises its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. Id. A ground or reason is untenable when it is not supported by substantial evidence or when it is based on an erroneous application of the law. Id.

III. The Merits.

As noted earlier, the evidence at issue was excluded because the trial court determined it was not relevant. Under Iowa Rule of Evidence 5.401, evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Evidence which is not relevant is not admissible. Iowa R. Evid. 5.402.

A. Malice Aforethought.

Westlund argues that evidence of his mental condition was relevant proof on the issue of malice aforethought, an essential element of first-degree murder. See Iowa Code § 704.1; State v. Reeves, 636 N.W.2d 22, 25 (Iowa 2001).

Evidence of a defendant's mental unsoundness, short of insanity, is not admissible to negate the element of malice aforethought. State v. McVey, 376 N.W.2d 585, 586 (Iowa 1985). The defense of diminished responsibility does not apply to the element of malice aforethought because testimony sufficient to establish defendant's lack of mental capacity to possess malice aforethought is also sufficient to entitle defendant to acquittal based on insanity. Id. at 586-87 (citing Sate v. Gramenz, 256 Iowa 134, 142, 126 N.W.2d 285, 290 (1964)). In State v. Wheeler, 403 N.W.2d 58 (Iowa Ct. App. 1987), we held:

[D]efendant argues that insufficient proof of insanity does not necessarily mean the state has met its burden to prove malice aforethought beyond a reasonable doubt. Defendant suggests that evidence concerning his mental condition showed he did not have the mental capacity to form malice aforethought and therefore the trial court erred in convicting him of murder. However, Iowa courts have held the trier of fact should not be allowed to consider evidence of a defendant's mental condition on the elements of malice aforethought and general criminal intent. Thus, we must disregard evidence of defendant's mental condition in determining whether the state proved malice aforethought beyond a reasonable doubt. Id. at 63 (reversed on other grounds) (citations omitted).

Westlund admits his mental condition did not meet the statutory definition of insanity. See Iowa Code § 701.4. Because evidence of a defendant's mental condition which does not meet the legal insanity standard should not be considered on the element of malice aforethought, the district court did not abuse its discretion in determining the evidence was not relevant to this issue.

B. Deliberation and Premeditation.

To prove first-degree murder, the State must show a person acted with deliberation and premeditation, in addition to malice aforethought. Reeves, 636 N.W.2d at 25. "Deliberation" is the action of weighing in one's mind or considering. State v. Talbbet, 590 N.W.2d 732, 733 (Iowa Ct. App. 1999). "Premeditation" is the action of thinking or pondering upon a matter before action. Id. Deliberation and premeditation need not exist for any particular length of time. State v. Helm, 504

N.W.2d 142, 146 (Iowa Ct. App. 1993).

The defense of diminished responsibility permits proof of a defendant's mental condition on the issue of his capacity to form a specific intent in those instances in which the State must prove specific intent as an element of the crime charged. State v. Jacobs, 607 N.W.2d 679, 684 (Iowa 2000); State v. Couser, 567 N.W.2d 657, 661 (Iowa 1997). The defense of diminished responsibility may negate the elements of premeditation and deliberation in a charge of first-degree murder. McVey, 376 N.W.2d at 586.

Here, Westlund did not file notice of a defense of diminished responsibility, and admits the defense was not available to him. In other instances, where the defense of diminished responsibility is not available to a defendant because he or she has been charged with a general intent, as opposed to a specific intent, crime, a defendant's mental condition, other than insanity, has not been considered. See McVey, 376 N.W.2d at 586. But see State v. Nicholson, 402 N.W.2d 463, 465-66 (Iowa Ct. App. 1987) (in a situation where the defense of diminished responsibility was not available, defendant could not present the testimony of witnesses on the issue of his mental health, but defendant himself testified on this issue). [1]

Our supreme court has stated:

In practical terms a court's refusal to recognize the relevancy of evidence of mental impairment short of legal insanity results from the court's understanding of the legislative intention concerning the blameworthiness of the defendant's conduct. To the extent evidence of mental impairment that does not meet the legal insanity standard permits an accused to avoid responsibility for otherwise culpable conduct, the policy inherent in the insanity defense is undermined. McVey, 376 N.W.2d at 587-88 (citing W. LeFave & A. Scott, Handbook on Criminal Law § 42, at 331-32 (1972)).

We conclude the district court did not abuse its discretion in refusing to admit the testimony of Dr. Taylor on the issues of premeditation and deliberation. In this instance, where Westlund admits the psychiatric evidence would not support a defense of insanity or diminished responsibility, we determine evidence of his mental condition was not relevant.

IV. Ineffective Assistance.

In the alternative, Westlund asserts that if we determine he failed to preserve error on his claim the district court abused its discretion in denying his request to present evidence on his mental condition, then he claims he received ineffective assistance of counsel. We have addressed Westlund's evidentiary arguments on the merits, and therefore, need not address his claims regarding ineffective assistance of counsel.

We affirm Westlund's conviction for first-degree murder.

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AFFIRMED.

1. In the present case, Westlund only made an offer of proof concerning the proposed testimony of Dr. Taylor. He did not attempt to present any evidence through his own testimony regarding his mental health.