



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. MARK HASKIE, JR.
CR-16-0327-PR**

PARTIES AND COUNSEL:

Petitioner: Mark Haskie, Jr.

Respondent: State of Arizona

FACTS:

In April 2013, Mark Haskie, Jr. and his girlfriend, PJ, checked into a motel in Flagstaff. Haskie looked through PJ's phone and then assaulted her, telling her, "I told you I would kill you if you cheated on me." The next afternoon PJ escaped and ran to the motel office, telling the manager to call police. Haskie pursued her, then turned and fled, returning to his mother's residence on the Navajo reservation. When police arrived, PJ stated that Haskie had beaten and strangled her. Physical evidence from the motel room corroborated her statement.

Several days later, PJ called Haskie and eventually moved back in with him and his mother. Haskie was arrested a year later. Shortly after Haskie's arrest, PJ wrote two letters to the prosecutor recanting her earlier statements to police, claiming instead to have been injured in a bar fight that she could not remember.

In recorded jail phone conversations, Haskie encouraged PJ to tell prosecutors that someone else had beaten her but that she had blamed Haskie because she was intoxicated and angry with him. Haskie apologized to PJ and promised to marry her if she helped get him released. During one exchange PJ responded to Haskie, "Well, maybe you shouldn't have tried to kill me. Maybe those things wouldn't be happening to you if you didn't do that to me." Haskie also instructed PJ to hide to avoid being served with a trial subpoena.

Before trial, the State moved in limine to admit the testimony of Dr. Ferraro as an expert witness on domestic violence, one with no knowledge of the facts of the case, known as a "cold" expert. The State argued that her testimony would help the jury understand why PJ had continued her relationship with the Haskie, had given conflicting statements while the case was pending, and was reluctant to testify. Haskie objected. The trial court granted the State's motion, and permitted Dr. Ferraro to answer the State's questions, which the court had reviewed and approved.

During her testimony, Dr. Ferraro was asked to define domestic violence; she answered: "I define domestic violence as one strategy to control and dominate an intimate partner." In response to the State's question "is it unusual for someone who has been hurt by an intimate partner to return to that relationship," Dr. Ferraro answered: "It's not unusual. It is very common." The

State then asked for reasons an abused person might stay in an intimate relationship, to which Dr. Ferraro opined: “And in serious domestic violence relationships, there is often threats that if you do try to leave me, I will harm you or it will harm the people that you love . . . all kinds of threats that would make a person afraid to leave the relationship.”

In response to the prosecutor’s question regarding domestic violence victims blaming themselves, Dr. Ferraro indicated “that’s a very common response.” Dr. Ferraro then expounded: “[P]art of it has to do with the manipulation of an abusive partner themselves because that’s a very common dynamic of domestic violence, is the abusive partner will turn the violence around and say that if you hadn’t done this or you had done that as I told you to do, this never would have happened, so it’s all your fault. And if you would just behave or comply with my wishes and my commands, then this wouldn’t happen.”

Dr. Ferraro testified that it would be “very typical” for a domestic violence victim to recant. After being asked why, Dr. Ferraro opined: “Well, oftentimes there is pressure not only from the abusive person but from friends and extended family members. I have worked with women who have actually been beat up by friends of the perpetrator who was incarcerated, try to intimidate her from not following through with the prosecution. . . . And so there is psychological manipulation of victims to try to get them to not cooperate with the system.”

The State did not question other witnesses about Dr. Ferraro’s testimony and did not mention her testimony during closing arguments. The State then called PJ, who testified that she was still in a relationship with Haskie and wanted to marry him. She stated she did not remember who beat her up because she had been drinking at the time and had initially blamed Haskie for her injuries because she was jealous, but that she in fact had cheated on him. The jurors were instructed “that they were not bound by any expert opinion and should give an opinion only the weight they believed it deserved.”

Haskie was convicted of two counts of aggravated assault–domestic violence, five counts of aggravated domestic violence, two counts of influencing a witness, and one count of kidnapping.

ISSUE FOR WHICH REVIEW WAS GRANTED:

“Did expert testimony during [Haskie’s] trial constitute impermissible domestic violence offender profiling?”

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