



Civil Rights Update

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Qualified Immunity Applied to Prosecutors and Police Officers Who Failed to Disclose Inadmissible Evidence About Alternative Murder Suspects

After 13 years in prison, an individual convicted of murder was released when the Illinois Supreme Court overturned his conviction. *Beaman v. Freesmeyer*, No. 14-1125, 2015 U.S. App. LEXIS 527, at *1 (7th Cir. Jan. 13, 2015). The Illinois Supreme Court found the State of Illinois violated the man's due process rights when the state failed to disclose important information about alternative suspects. *Beaman*, 2015 U.S. App. LEXIS 527, at *1. After his release, he filed a section 1983 claim against the police officers and prosecutors involved in the murder investigation and his prosecution. *Id.*

This article examines whether inadmissible evidence inculcating another murder suspect could be considered *Brady* material under *Brady v. Maryland*, 373 U.S. 83 (1963). To establish a violation of *Brady*, the plaintiff must show: (1) the evidence at issue was favorable to the accused, either because it was exculpatory or because it was impeaching; (2) the evidence must have been suppressed by the state, either willfully or inadvertently; and (3) the evidence must have been material, meaning there was a reasonable probability that the result of the proceeding would have been different. *Beaman*, 2015 U.S. App. LEXIS 527, at *13 (citing *Carvajal v. Dominguez*, 542 F.3d 561, 566–67 (7th Cir. 2008)). In addition, this article examines why police officers and prosecutors were entitled to qualified immunity for failing to disclose inadmissible evidence that cast suspicion onto other perpetrators.

Factual Background

Jennifer Lockmiller, a 21-year-old student at Illinois State University, was found dead in her apartment in Normal, Illinois on August 28, 1993. *Beaman*, 2015 U.S. App. LEXIS 527, at *3. A pair of scissors was buried in her chest and an electrical cord from her alarm clock was wrapped around her throat. *Id.* Her body was severely decomposed, but an autopsy revealed she died from being strangled by the alarm clock cord. *Id.* Lockmiller's murder became a high profile story in the twin college towns of Normal and Bloomington. *Id.*

Because there was no sign of forced entry into her apartment and nothing had been stolen, the investigators focused immediately on men Lockmiller dated. *Id.* at *3–4. The police questioned several of her boyfriends, including Michael Swaine, Stacey Gates, Larbi John Murray, and Alan Beaman. *Id.* at *4.

Swaine, Lockmiller's current boyfriend, was quickly eliminated as a suspect because he was working at a bookstore in Elmhurst, Illinois, on August 25, the day that the state said Lockmiller was killed. *Id.*

The police also questioned Gates, a former boyfriend, who had moved from Wisconsin to Peoria to be closer to Lockmiller. *Id.* at *14. Gates had learned shortly before Lockmiller's death that she did not want to be with him. *Id.* Gates took a polygraph test, which revealed he answered questions inconsistently. *Id.* at *5. The report was never given to the



Assistant State's Attorney (ASA) or to defense counsel. *Id.* The prosecution eliminated Gates as a suspect because check-in logs at a Peoria school showed Gates was working as a teacher on August 25. *Id.*

Murray, who lived near Lockmiller's apartment, was Lockmiller's drug dealer and one of her lovers. *Id.* Initially, Murray told police he left Normal on August 24, the day before Lockmiller died, but Murray's girlfriend told police he did not leave town until the afternoon of August 25. *Id.* Murray told detectives he was home alone on August 25 and could not provide any proof of his whereabouts. *Id.*

In addition to these suspicious circumstances, Murray had domestic battery and drug charges pending against him and a history of steroid abuse. *Id.* He agreed to a polygraph examination, but the examiner was not able to start the test because Murray refused to follow instructions. *Id.* at *6. The state never turned over Murray's polygraph report or arrest records to defense counsel. *Id.* at *8.

Beaman, another suspect, dated Lockmiller off and on until a month before she was killed. *Id.* Their relationship was tumultuous, especially because Lockmiller was also involved with Beaman's former roommate, Swaine. *Id.* at *6.

Beaman told investigators it was impossible for him to have killed Lockmiller because he was living with his parents in Rockford, about two hours from Normal. *Id.* No one knew where Beaman was between 10:11 a.m. and 2:15 p.m., the same time period the state said Lockmiller was killed. *Id.* at *7.

A detective demonstrated Beaman could have gone to Normal and back to Rockford between 10:11 a.m. and 2:15 p.m. by driving well over the speed limit. *Id.* Despite the weaknesses in the case, the state decided to prosecute Beaman because he was the only person with both the motive and an opportunity to kill Lockmiller. *Id.*

Before trial, the ASA filed a motion *in limine* to exclude evidence of Lockmiller's relationships with men other than Beaman and Swaine. *Id.* at *8. The ASA argued that the defense should not be allowed to offer speculative evidence about alternative suspects. *Id.* The court granted the motion *in limine* because Beaman's attorney did not have specific evidence that another person killed Lockmiller. *Id.*

Post-Conviction Relief

Beaman was convicted of Lockmiller's murder, but on appeal, the Illinois Supreme Court reversed and vacated the conviction, finding that undisclosed evidence was improperly withheld from the defense, in violation of *Brady*. *Id.* at *8-9. The court found the undisclosed evidence was "clearly favorable to Beaman in establishing Murray as an alternative suspect." *Id.* at *9. Moreover, the court concluded there was "a reasonable probability that the result of the trial would have been different if Beaman had presented the evidence establishing Murray as an alternative suspect." *Id.* at *10. Following the Illinois Supreme Court's ruling, the state dismissed all charges. *Id.*

Section 1983 Claim

Subsequently, Beaman filed a complaint under 42 U.S.C. § 1983 in the United States District Court for the Central District of Illinois against five police officers from the Normal Police Department, two McLean County prosecutors, and the two municipalities. *Id.* Beaman's complaint included state law claims for malicious prosecution, civil conspiracy, intentional infliction of emotional distress, *respondeat superior*, and indemnification claims. *Id.* at *10-11.



Beaman alleged “the defendants, acting individually, jointly, and in conspiracy, deprived [him] of a fair trial by withholding material exculpatory evidence in violation of *Brady*.” *Id.* at *10. The evidence Beaman claimed was *Brady* material included the Murray evidence, Gates’s polygraph report, the unsolved nature of the case, and the results of the different time trials involving Beaman’s ability to commit the crime. *Id.* at *11.

The district court granted summary judgment in favor of the defendants because the prosecutor had most of the *Brady* material, which discharged the detectives’ individual liability under *Brady*. *Id.* at *11–12. Second, Beaman failed to provide sufficient evidence of a conspiracy or a failure to intervene. *Id.* at *12. Third, Gates’s polygraph report was not *Brady* material. *Id.* Finally, the defendants were entitled to qualified immunity for their failure to turn over the Murray evidence. *Id.* The district court also dismissed the state law claims against the Town of Normal for lack of jurisdiction. *Id.*

The Court of Appeals’ Ruling

The Seventh Circuit affirmed the grant of summary judgment, finding that Beaman did not present enough evidence for a reasonable jury to infer a conspiracy to conceal the *Brady* material. *Id.* at *2.

On appeal, Beaman argued the district court erred when it determined that Gates’s polygraph report was not *Brady* material. *Id.* at *13. Beaman argued Gates had an opportunity and a motive to kill Lockmiller because he was passionately in love with her, moved to Peoria to be near her, and then learned shortly before her death that she did not want to be with him. *Id.* at *14.

The Seventh Circuit found that withholding Gates’ polygraph report did not violate *Brady* because the report was not “material.” *Id.* “If confidence in the outcome of the trial is undermined by the reasonable probability of a different outcome, the evidence is material and the criminal defendant suffered prejudice.” *Id.* (citing *Kyles v. Whitley*, 514 U.S. 419, 434 (1995)). The court held Beaman failed to show a reasonable probability that the result of his criminal trial would have been different if Gates’ polygraph report had been disclosed. *Beaman*, 2015 U.S. App. LEXIS 527, at *15.

Next, the court addressed Beaman’s argument that the district court erred in finding the individual defendants were entitled to qualified immunity for their failure to give Murray’s polygraph report, which was considered *Brady* material, to the prosecution and defense counsel. *Id.* at *18. The court explained that “[a]n official is entitled to qualified immunity for conduct that does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Id.* (citing *Whitlock v. Brueggemann*, 682 F.3d 567, 580 (7th Cir. 2012)). The first question in the qualified immunity analysis is whether the plaintiff alleged a deprivation of a constitutional right. *Beaman*, 2015 U.S. App. LEXIS 527, at *18. The second question in the qualified immunity analysis is whether the right at issue was clearly established at the time and under the circumstances presented. *Id.* (citing *Whitlock*, 682 F.3d at 580).

A plaintiff can show that a right is “clearly established” by: (1) pointing to a clearly analogous case establishing the right to be free from the conduct at issue, or (2) showing that the conduct was “so egregious that no reasonable person could have believed that it would not violate established rights.” *Beaman*, 2015 U.S. App. LEXIS 527, at *19 (quoting *Smith v. City of Chicago*, 242 F.3d 737, 742 (7th Cir. 2001)). Even if factual circumstances are novel, a right can still be clearly established so long as the state of the law at the time gave the defendants fair warning that their conduct was unconstitutional. *Beaman*, 2015 U.S. App. LEXIS 527, at *19 (citing *Hope v. Pelzer*, 536 U.S. 730, 741 (2002)).



Beaman argued that *Brady* had been on the books since 1963 and easily qualified as clearly established law. *Beaman*, 2015 U.S. App. LEXIS 527, at *20 (citing *Steidl v. Fermon*, 494 F.3d 623, 628 (7th Cir. 2007)). The court reasoned that the idea that police officers must turn over materially exculpatory evidence had been on the books since 1963, but the idea that polygraph reports were materially exculpatory evidence had certainly not been on the books since 1963. *Beaman*, 2015 U.S. App. LEXIS 527, at *20.

In Illinois, and in most states, polygraph reports are generally inadmissible at trial. *Id.* (See e.g., *People v. Jefferson*, 184 Ill. 2d 486, 492 (1998) (“[T]he general rule in Illinois is to preclude introduction of evidence regarding polygraph examinations and the results of those tests”). There are a few exceptions, however. *People v. Gard*, 158 Ill. 2d 191, 202–03 (1994). For example, polygraph evidence can be admitted at trial for the limited purpose of determining the creditability and reliability of the defendant’s confession. *People v. Melock*, 149 Ill. 2d 423, 465 (1992).

Because Beaman could not show the defendants violated a clearly established right, the Seventh Circuit held the defendants were entitled to qualified immunity for their failure to turn over polygraph reports to Beaman’s defense counsel. *Beaman*, 2015 U.S. App. LEXIS 527, at *23.

Conclusion

Qualified immunity applied to the defendants in *Beaman* because they did not violate a clearly established right. The Seventh Circuit held that when Beaman was convicted, there was no pre-1995 case law establishing that inadmissible evidence inculpatory another suspect through polygraph tests was *Brady* material. *Id.* at *22–23. Prior to Beaman’s trial, several Illinois Supreme Court cases established that polygraph tests were inadmissible at trial, subject to a couple exceptions that were inapplicable to Beaman’s case.

The question of whether and when inadmissible evidence can be *Brady* material remains an open question in many jurisdictions today. See *U. S. v. Morales*, 746 F.3d 310 (7th Cir. 2014). Practitioners should be mindful that what is considered a clearly established right is a sliding scale and can change as case law develops.

About the Authors

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