Capital Defense Journal

Volume 17 | Issue 1 Article 12

Fall 9-1-2004

# United States v. Lentz 383 F.3d 191 (4th Cir. 2004)

# United States v. Lentz
# 383 F.3d 191 (4th Cir. 2004)

## *I. Facts*

In the spring of 1996, Jay Lentz and his ex-wife Doris Lentz were engaged in bitter property and custody disputes arising from the 1995 dissolution of their six-year marriage.[1] Doris had expressed fear of Lentz's violent behavior and, since their divorce, had usually arranged to meet him only in public settings.[2] In April 1996 Lentz and Doris arranged for their daughter Julia to go to Indiana to visit Lentz's parents.[3] On April 23 Doris traveled from her home in Virginia to Lentz's home in Maryland to retrieve Julia after her trip.[4] The next morning, Lentz appeared in family court for a scheduled hearing but Doris did not.[5] On April 28 police found Doris's car, with its doors unlocked and Doris's purse and keys in plain sight, in a parking lot in Washington, D.C.[6] Police found blood from both Doris and Lentz on the passenger seat of the car.[7] At the end of 1996, Lentz moved to Indiana with Julia.[8]

On April 24, 2001, a federal grand jury indicted Lentz on one charge of "kidnapping resulting in death."[9] A jury found Lentz guilty in July 2003 and recommended a life sentence.[10] Arguing that the Government had not proven the kidnapping element of holding for ransom, reward, or otherwise, Lentz filed

---

1. United States v. Lentz, 383 F.3d 191, 195–96 (4th Cir. 2004).

2. *Id.* at 195.

3. *Id.* at 196.

4. *Id.* The evidence revealed some confusion as to when Julia was to return from Indiana. *Id.* Although evidence demonstrated that Doris initially believed she would get Julia back on April 24, Lentz changed the pick-up date to the night before. *Id.* Julia's airline ticket, however, had a return date of April 26, which Lentz changed to April 27. *Id.*

5. *Id.* at 197.

6. *Id.*

7. *Lentz*, 383 F.3d at 197–98.

8. *Id.* at 198.

9. *Id.*; *see* 18 U.S.C. § 1201(a)(1) (2000) (providing for life imprisonment or a death sentence as punishment for "[w]hoever unlawfully seizes, . . . inveigles, . . . [or] kidnaps, . . . any person . . . when the person is willfully transported in interstate . . . commerce, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began," if death results). None of the individual jurisdictions could put together enough evidence to prove state murder charges because Doris's body was never found. *Lentz*, 383 F.3d at 198.

10. *Lentz*, 383 F.3d at 198–99.

a motion for acquittal, which the United States District Court for the Eastern District of Virginia ultimately granted in a post-trial ruling.[11]

The district court also granted Lentz a new trial under Federal Rule of Criminal Procedure 33 because the jury had access to evidence that was not admitted during trial.[12] After the trial, three jurors told Lentz's counsel that Doris's brown day planner and her black pocket calendar were in the jury room during deliberations.[13] The court had admitted into evidence neither item, with the exception of two pages from each.[14] Both the planner and the calendar "contained Doris's notes concerning Lentz's harassing and threatening behavior . . . ; notes concerning Doris's efforts to obtain a protective order; names and telephone numbers of police officers and a domestic violence support group; and notes summarizing derogatory statements about Doris made by Lentz to Julia."[15] After an evidentiary hearing marked by sharply conflicting evidence about how the planners came to be in the jury room, the district court concluded that Assistant United States Attorney ("AUSA") Mellin had intentionally provided the inadmissible evidence to the jury.[16] The Government appealed all of the district court's findings.[17]

## *II. Holding*

Finding that the Government had presented enough evidence to prove beyond a reasonable doubt all of the elements of a federal kidnapping resulting in death, including that Lentz had "held" Doris before killing her, a divided panel of the United States Court of Appeals for the Fourth Circuit reversed the district court's judgment of acquittal.[18] The Fourth Circuit also unanimously reversed the district court's finding of intentional misconduct by AUSA Mellin.[19] Finally, the Fourth Circuit affirmed the district court's Rule 33 grant of a new trial "based upon the presence of unadmitted items of evidence in the jury room during deliberations."[20]

---

11. *Id.* at 199–201.

12. *Id.* at 205, 219; *see* FED. R. CRIM. P. 33(a) (stating that "[u]pon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires"). The district court granted the new trial in case the court of appeals overturned its postverdict judgment of acquittal. *Lentz*, 383 F.3d at 206.

13. *Lentz*, 383 F.3d at 205.

14. *Id.*

15. *Id.*

16. *Id.* at 206.

17. *Id.* at 199, 205.

18. *Id.* at 195, 204–05.

19. *Lentz*, 383 F.3d at 195.

20. *Id.*

## *III. Analysis*

### *A. Kidnapping Resulting in Death*

The Fourth Circuit outlined the elements the Government needed to prove to convict Lentz of the federal capital crime of kidnapping resulting in death.[21] Under 18 U.S.C. § 1201(a)(1), to prove a federal kidnapping, the Government must show the following: (1) "Doris was 'willfully transported in interstate . . . commerce' "; (2) Lentz " 'unlawfully seize[d], confine[d], inveigle[d], decoy[ed], kidnap[ped], abduct[ed], or carrie[d] [Doris] away' "; (3) Lentz held Doris " 'for ransom or reward or otherwise' "; and (4) Doris's death resulted.[22] The district court found that the Government had not met its burden in proving the third element of the crime.[23]

The Fourth Circuit pointed out that Lentz did not contest that the Government had proven the first and second elements of the crime.[24] The court relied on its decision in *United States v. Wills*[25] that a kidnapper need not " 'accompany, physically transport, or provide for the physical transportation of the victim' " across state lines, but it must simply "show that the kidnapper 'willfully caused unaccompanied travel over state lines.' "[26] Finding that the Government provided enough evidence for a reasonable jury to conclude that Lentz had lured Doris from Virginia to Maryland with the promise of returning their daughter, the court concluded that the Government had satisfied the first element.[27] The Fourth Circuit also concluded that this evidence of inveigling also satisfied the second element.[28] The court stated that Lentz conceded the fourth element, death.[29]

Lentz's argument for acquittal rested on the claim that the Government did not prove that he had held Doris " 'for ransom or reward or otherwise.' "[30] The United States Supreme Court defined a "holding" in *Chatwin v. United States*[31] as " 'an unlawful physical or mental restraint for an appreciable period against the

---

21. *Id.* at 199–200.

22. *Id.* at 199 (quoting 18 U.S.C. § 1201(a)(1) (2000)).

23. *Id.* at 204.

24. *Id.* at 201.

25. 234 F.3d 174 (4th Cir. 2000).

26. *Lentz*, 383 F.3d at 199 (quoting United States v. Wills, 234 F.3d 174, 178–79 (4th Cir. 2000)).

27. *Id.* at 200.

28. *Id.* at 200–01; *see* United States v. Hughes, 716 F.2d 234, 239 (4th Cir. 1983) (holding that "[by] inducing his victim by misrepresentations to enter his vehicle . . . and knowing that the victim's belief as to their purpose and destination is different from his actual illicit purpose, the kidnapper has interfered with, and exercised control over, her actions").

29. *Lentz*, 383 F.3d at 201.

30. *Id.* (quoting 18 U.S.C. § 1201(a)(1) (2000)).

31. 326 U.S. 455 (1946).

person's will and with a willful intent so to confine the victim.' "[32] Relying on this standard, Lentz argued that the Government had no direct evidence to show that, between the time of Doris's arrival and her death, Lentz had "exerted any physical or mental force sufficient to effect a restraint upon her movements."[33] Without such evidence, Lentz claimed, no reasonable jury could find beyond a reasonable doubt that Lentz had "held" Doris so as to satisfy the third element of a federal kidnapping.[34]

The Fourth Circuit concluded, to the contrary, "that the evidence, though circumstantial, was sufficient to support the jury's determination that, upon Doris's arrival at Lentz's home, Lentz exerted an unlawful physical or mental restraint for an appreciable period against Doris's will."[35] The court pointed to evidence that before Doris came to his house on the evening of April 23, Lentz had stopped his mail, asked his realtor to remove the lockbox from his door, and spread a blue tarp in the living room.[36] Lentz had done no interior painting to necessitate the tarp but he had repainted a portion of the floor of the carport, and he later replaced some furniture.[37] In addition, the court noted that there was blood in Doris's normally clean car, and Doris's friends testified that she would not have allowed Lentz to get into her car.[38] The court concluded that taking this circumstantial evidence as a whole, a jury could reasonably infer that Lentz used the threat of force to lure Doris into his home, where he killed her.[39] The court found that such a conclusion satisfied the "holding" element of kidnapping.[40] The court further found that, despite the lack of direct evidence about the time of the murder, the jury reasonably concluded that Lentz did not kill Doris immediately but indeed held her " 'for an appreciable period.' "[41] Accordingly, the Fourth Circuit reversed the district court's judgment of acquittal.[42]

---

32. *Lentz*, 383 F.3d at 201 (quoting Chatwin v. United States, 326 U.S. 455, 460 (1946)) (emphasis omitted).

33. *Id.*

34. *Id.*

35. *Id.* at 201–02.

36. *Id.* at 202.

37. *Id.* at 198.

38. *Lentz*, 383 F.3d at 202.

39. *Id.* at 202–03.

40. *Id.*

41. *Id.* at 203 (quoting *Chatwin*, 326 U.S. at 460).

42. *Id.* at 205.

### B. New Trial

#### 1. Standards of Review

The Fourth Circuit made clear its different standards of review for the claims in this appeal. The court used a clearly erroneous standard to review "the district court's factual findings that AUSA Mellin intentionally placed the day planners with the evidence for the jury."[43] The court then applied abuse of discretion review to the lower court's grant of a new trial based upon the jury's consideration of extraneous material.[44]

#### 2. Intentional Misconduct

The Fourth Circuit concluded that the evidence adduced during the hearing to determine how the inadmissible evidence got into the jury room was too equivocal to sustain the district court's conclusions and that "the district court's finding of intentional misconduct rest[ed] upon several clearly erroneous underlying factual findings."[45] The court found that the district court erroneously construed the record to find that it had repeatedly excluded the planners in response to the Government's persistent efforts to introduce them as evidence.[46] By relying on this finding, and by erroneously concluding that the court's own staff was not responsible for the planners' presence in the jury room, the district court erred in finding that AUSA Mellin had intentionally concocted a plan to sneak the inadmissible evidence to the jury.[47] Attributing the planners' journey to the jury to "inadvertent errors," the Fourth Circuit therefore reversed the district court's holding of intentional misconduct by AUSA Mellin.[48]

#### 3. New Trial in the Interest of Justice

Despite its finding that no intentional misconduct had occurred, the Fourth Circuit nonetheless reviewed the district court's grant of a new trial according to the standards of Federal Rule of Criminal Procedure 33(a), which states that "the district court 'may vacate any judgment and grant a new trial if the interest of justice so requires.' "[49] The court stated that, under its ruling in *United States v. Barnes*,[50] " '[i]f prejudicial evidence that was not introduced at trial comes before

43. *Id.* at 210.
44. *Lentz*, 383 F.3d at 219.
45. *Id.* at 210.
46. *Id.* at 211–12.
47. *Id.* at 211–17.
48. *Id.* at 218 n.12, 219.
49. *Id.* at 219 (quoting FED. R. CRIM. P. 33(a)).
50. 747 F.2d 246 (4th Cir. 1984).

the jury, the defendant is entitled to a new trial.' "[51] The court defined prejudice as " 'a reasonable possibility that the jury's verdict was influenced by the material that improperly came before it.' "[52] The court placed the burden on the Government to prove that the exposure to the evidence was harmless.[53]

Applying this standard, the Fourth Circuit concluded that the district court had not abused its discretion in finding the extraneous material prejudicial and in granting Lentz a new trial.[54] The court found that the likelihood of prejudice was strong in each of the four categories of extraneous materials that had reached the jury.[55] The Fourth Circuit thus affirmed the district court's grant of a new trial and remanded the case for a trial before a new judge.[56]

### *IV. Application to Virginia Practice*

The Fourth Circuit majority's willingness to defer to a jury's inference of guilt based on layers of circumstantial evidence contrasts with its refusal to defer to the district court's factual findings that were likewise based upon similarly circumstantial evidence. Even the Government acknowledged in its argument before the district court that it could not explain precisely how or for how long Lentz held Doris prior to killing her.[57] The dissent detailed this colloquy between the Government and the district court:

> THE COURT: Tell me what the detention is in this case.
> [AN AUSA]: The detention began, Your Honor, when [Doris] was inveigled. She was being held when she started to be inveigled over to [Lentz's] house. And when she got to his house, he had to hold her to kill her. Somehow or other, he detained her there and he killed her.
> THE COURT: What evidence do you have of any of that?
> [AN AUSA]: That [Doris] was ultimately killed. And that [Lentz] had to hold her to detain her to ultimately kill her.[58]

As the above exchange illustrates, the Government itself had to make leaps of logic to assert that there had been a "holding" in this case. The Fourth Circuit

---

51. *Lentz*, 383 F.3d at 219 (quoting United States v. Barnes, 747 F.2d 246, 250 (4th Cir. 1984)).

52. *Id.* (quoting *Barnes*, 747 F.2d at 250).

53. *Id.*

54. *Id.* at 221.

55. *Id.* at 220–21. The district court classified the inadmissible information as follows: (1) notes concerning threats Lentz had made to Doris; (2) notes concerning Doris's pursuit of a protective order; (3) "notes documenting statements made by Lentz to Julia"; and (4) notes concerning Doris's inquiry into domestic violence advice. *Id.* at 220.

56. *Id.* at 221–22.

57. *Lentz*, 383 F.3d at 223.

58. *Id.*

nevertheless concluded that a rational jury could have come to the same conclusion based upon this completely circumstantial evidence.[59]

The Fourth Circuit, however, refused to grant the district court the same leeway it granted the Government in the misplaced planner situation. The district court heard evidence from defense counsel, the Government, and its own staff concerning the process of preparing the evidence to go to the jury.[60] None of the witnesses could explain how the planners got to the jury, but it was at least clear that they ended up in the jury room.[61] The district court may have gone too far in assigning blame to AUSA Mellin, but it surely went no further than did the jury in concluding, based upon no direct evidence, that Lentz had held Doris for a time period sufficient to satisfy the third element of federal kidnapping.

### *V. Conclusion*

In *Lentz*, the Fourth Circuit appears to have granted AUSA Mellin a more robust presumption of innocence than it gave Lentz, even though the "clearly erroneous" standard of review normally imposes a heavier burden on the party challenging the factual findings of a trial judge. Lentz received his new trial because the jury mysteriously received evidence that the district court had originally refused to allow it to consider. The Government, however, also received a second chance to prove what the district court said that it had not proven in the first trial.

Tamara L. Graham

59. *Id.* at 203–04.

60. *Id.* at 205–19.

61. *Id.*