

Court of Appeals, State of Michigan

ORDER

People of MI v Devin Nicholas DeAngelis

Docket No. 304048

LC No. 10-008664-FC

Michael J. Talbot
Presiding Judge

Karen M. Fort Hood

Cynthia Diane Stephens
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the February 25, 2011, order of the Wayne Circuit Court regarding the testimony of expert witnesses hereby is REVERSED IN PART regarding the testimony of Dr. Mary Lu Angelilli. The circuit court abused its discretion in ruling that Dr. Angelilli could not give testimony that injuries sustained by a child were non-accidental or abusive based on her own assessment of the child's injuries, but could only testify that other physicians had suspicions of child abuse in this case. The circuit court further abused its discretion in barring Dr. Angelilli's testimony regarding the consistency between the child's injuries and defendant's explanation of how the injuries occurred. MRE 702 expressly allows an expert to be qualified based on knowledge and experience. A proposed expert "should not be scrutinized by an overly narrow test of qualifications." *People v Whitfield*, 425 Mich 116, 123; 388 NW2d 206 (1986). Although Dr. Angelilli is not board certified in child abuse, she has spent decades on the Child Protection Team at Children's Hospital, spends the majority of her time reviewing cases for suspected child abuse, teaches seminars regarding child abuse, is familiar with articles regarding abusive head trauma, and has authored articles regarding child abuse. The record before this Court reflects that Dr. Angelilli possesses the qualifications to testify as an expert witness regarding child abuse and her opinion testimony should not have been limited. The case is REMANDED to the circuit court for further proceedings consistent with this order.

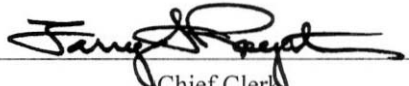
This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JL 15 2011
Date


Chief Clerk