

Winston Helps Keep Junk “Expert” Testimony Where It Belongs, Television *Not* Trial

JANUARY 31, 2020

The Supreme Court of Illinois affirmed a new trial for pro bono Winston client, Shadwick King. King was convicted of murdering his wife after she was found dead near railroad tracks close to their home in the early hours of July 6, 2014. The decision will have major implications for the use of expert witnesses in criminal *and* civil cases.

Mrs. King was found with no obvious cause of death. Competing medical experts “hotly contested” the cause—“one saying it was a homicide caused by manual strangulation and the other saying it was a natural death caused by a sudden cardiac arrhythmia.” There was no DNA evidence, no eyewitness, and no direct evidence against King.

The trial court allowed the State to present Mark Safarik as an expert in “crime scene analysis.” Safarik, a TV actor and retired law enforcement professional, has a niche as an “expert” in circumstantial criminal cases. Presenting Safarik to the jury here, the State described him as an FBI-Profiler like in “Silence of the Lambs” and “Criminal Minds.”

When the Illinois Appellate Court found this testimony improper and ordered a new trial, the State appealed. And after the Supreme Court granted that appeal, King turned to Winston. The Firm pursued the opportunity, briefed the case, and argued it on November 13, 2019.

On January 24, 2020, the Supreme Court held that “there is absolutely no question that Safarik never should have been allowed to testify as an expert in this case.” The Court “stress[ed] that we will not condone the calling of experts solely for the purpose of shoring up one party’s theory of the case” and said that “we want to make absolutely clear that such testimony is not to be permitted going forward.”

Partner Matt Carter argued the case. He and associate Libby Deshaies led the case team, assisted by Amelia Garza-Mattia and Sam Zuidema. Partner Brook Long, along with many attorneys outside the firm, helped with this important victory. Former associate Karl Leonard, who now works for the University of Chicago’s Exoneration Project, wrote an outstanding amicus brief in support.

The case received extensive media coverage for its legal implications, earned Carter honorable mention recognition from the *American Lawyer’s* Litigator of the Week column, and was the focus of an *American Lawyer Litigation Daily* feature, noting: “Working pro bono, Carter represented King before the Illinois Supreme Court, which on Jan. 24 ordered a new trial for the defendant in a decision with implications for the use of expert witnesses in both criminal and civil cases.”

The case was also covered by the *Chicago Tribune*, *Chicago Daily Herald*, *The Chicago Daily Law Bulletin*, and *Kane Country Chronicle*.

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