

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT T. GREENLEY,	§	
	§	No. 279, 2003
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE	§	Cr. I.D. No. 0207010713
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: December 9, 2003  
Decided: January 27, 2004

Before **VEASEY**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

**ORDER**

This 27th day of January 2004, upon consideration of the briefs of the parties, it appears to the Court that:

(1) Robert Greenley appeals his conviction of Vehicular Homicide in the Second Degree (in violation of 11 *Del. C.* § 630) on the ground that the trial court improperly excluded the “hearsay within hearsay” testimony of Greenley’s wife at his trial.

(2) On March 15, 2002, Greenley and three others, including his friend, James Sayers, went to two establishments in Wilmington to socialize. All four were operating motorcycles. As they left the second restaurant, Diane Walley was riding on the back seat of Greenley’s motorcycle. Greenley testified that as they rounded a

corner, Sayers cut in front of him, which caused Greenley to brake hard, throwing his motorcycle into a slide, and throwing Walley off the bike, causing her to be fatally injured. Immediately after the accident, Greenley became agitated and accused Sayers of running him off the road.

(3) At trial, Greenley admitted that during that evening he had consumed two beers, four or five rum and cokes, and two shots. Less than four hours after the accident, Greenley's blood alcohol content was 0.179, well over the legal limit. Sayers testified that he knew that Greenley blamed him for the crash, that he (Sayers) had told his wife that he (Sayers) was going to sell his motorcycle because of the crash, and that he hoped that Greenley didn't hate him.

(4) The defense presented the testimony of Sayers and his wife, Betsy, both of whom testified that Sayers told his wife he was going to sell his motorcycle and that he hoped Greenley did not hate him. Betsy also testified that she had called Greenley's wife, Jacqueline Greenley, the next day and discussed these same subjects with her.

(5) The defense then attempted to call Jacqueline Greenley, to testify that Betsy had called her the morning after the accident and told her that Sayers was going to sell his motorcycle and that Sayers hoped Greenley did not hate him. The trial court sustained the State's objection to the proffered "hearsay within hearsay" testimony. Greenley has timely appealed on this single issue.

(6) This Court will review admissibility of evidence rulings for abuse of discretion.<sup>1</sup> An abuse of discretion occurs when "a court has . . . exceeded the bounds of reason in view of the circumstances...[or] . . . so ignored recognized rules of law or practice so as to produce injustice."<sup>2</sup>

(7) The trial court properly ruled that the statements were hearsay within hearsay, and that they were not admissible under any exception to the hearsay rule. The court also correctly ruled that the statements were only marginally relevant, because Sayers' expression of his feelings after the accident was not necessarily evidence of negligence. Greenley was offering the statements to show that Sayers' negligence caused the accident, and that he (Greenley) was not negligent. Sayers' wife was permitted to testify to Sayers' statements because Sayers did not unequivocally admit making the statement.

(8) The trial court correctly sustained the State's objection to Jacqueline Greenley's testimony that Sayers' wife had repeated those statements to her the following day, however, because that testimony would have been hearsay within hearsay, cumulative, and of marginal relevance. Moreover, because essentially the same testimony was presented through Sayer's wife, any error was harmless.

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<sup>1</sup> *Lilly v. State*, 649 A.2d 1055 (Del. 1994).

Because the trial court acted well within its discretion, NOW, THEREFORE, IT IS ORDERED that the ruling of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice