NJ Supreme Court Expands Admissibility of Drug Expert Testimony



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On February 17, 2023, the New Jersey Supreme Court ruled that judges may look outside general scientific community norms when determining the admissibility of expert testimony relating to suspected intoxication in criminal cases.

In criminal cases involving suspected intoxication, the testimony of drug recognition experts, or DREs, are used. DREs apply twelve factors to assess whether a person is under the influence of a drug. Before this ruling, DREs were held to the "Frye Standard," which allowed expert testimony to be admitted if it was "generally accepted" as reliable according to the scientific community. However, the Court noted that DREs are not a "scientific community" and defining one for them would be difficult. Thus, the Court concluded that the "Daubert Standard" should now apply to testimony in criminal proceedings. This standard allows judges to examine how reliable or scientific the testimony is – not basing it on a scientific community. Judges may now view DRE testimony on a case-by-case basis.

This decision provides judges with an opportunity to better understand and assess scientific theories, techniques, and most importantly, emerging areas of science. Allowing this kind of testimony in court comes at a pivotal time for New Jersey, as the state recently legalized cannabis.

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