

**SYNOPSIS OF OPINION IN DEATH PENALTY CASE IN THE MISSISSIPPI SUPREME COURT
HANDED DOWN MAY 11, 2017**

Hutto v. State, No. 2014-DP-00177-SCT, 2017 WL 2001157 (Miss. May 11, 2017)

CASE: Direct appeal from conviction of capital murder and death sentence

SENTENCE: Death

COURT: Circuit Court, Hinds County,

TRIAL JUDGE: Hon. William A. Gowan, Jr.

APPELLANT'S ATTORNEYS: Office of the State Public Defender, André de Gruy, John Helmert

APPELLEE'S ATTORNEYS: Office of the Attorney General, Ladonna C. Holland, Jason L. Davis

DISTRICT ATTORNEY: Robert Shuler Smith

DISPOSITION: Conviction of capital murder and sentence of death affirmed. Chamberlin J., for the Court En Banc. Waller, C.J., Randolph, P.J., Maxwell and Beam, JJ., concur. DICKINSON, P.J., concurs in part and dissents in part with separate written opinion joined by Kitchens, King and Coleman, JJ.

ISSUES: Multiple issues were raised by Hutto. These included letting the jury hear parts of a statement given during police initiated interrogation conducted after Hutto had invoked his right to counsel, not letting it hear mitigation testimony from Hutto's aunt that Hutto had reported to her that he been sexually abused in childhood, and excluding penalty phase testimony by Dr. Julie Schroeder, a Professor of Social Work with a doctorate in the field, that in her professional opinion Hutto suffers from post-traumatic stress disorder rooted in that childhood abuse as defined in the standard Diagnostic and Statistical Manual.

FACTS: Hutto was accused and convicted of robbery capital murder for killing an elderly woman whom he had befriended at a local healthplex/gym and taking her car. Both in pretrial proceedings and again during the trial he behaved in bizarre, disruptive, and counterproductive-to- any-possible-defense ways. But the trial court, after an evaluation conducted at the State Hospital ruled him competent to stand trial and declined to revisit that ruling during the trial despite Hutto's multiple in-trial outbursts. At sentencing Hutto sought to mitigate the crime and to some degree explain his behavior by offering testimony from an expert in social work that he suffered from PTSD. Despite testimony from Dr. Schroeder that social workers are routinely trained to engage in and actually engage in diagnosis of mental health conditions in social work practice, and that she herself teaches that subject to students, the trial court refused to let the Dr. Schroeder testify to the diagnosis.

HELD: Chamberlin, J. Admission of the statement and exclusion of the aunt's testimony was erroneous, but harmless. A witness accepted only as an expert in social work is not qualified to make or testify about psychological or psychiatric diagnoses unless the diagnosis was made by a psychologist or psychiatrist. This matter is therefore distinguishable from *Fulgham v. State*, 46 So.3d 315, (Miss. 2010) where a psychiatrist made the diagnosis upon which the social work expert would have relied had she been permitted to testify about her opinions as a social work expert.

Dickinson, P.J., concurring in part and dissenting in part: The exclusion of Dr. Schroeder's diagnostic opinion was prejudicial error that requires a new sentencing proceeding. Based on her uncontradicted testimony concerning the field of social work and her own qualifications in it, this testimony "fell squarely within Dr. Schroeder's expertise" and its exclusion was indistinguishable from the error in *Fulgham*.

To read the full opinion, click here: <https://courts.ms.gov/Images/Opinions/CO120084.pdf>

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