

SUPREME COURT OF NEW MEXICO

State v. Sisneros

2013-NMSC-049 (2013) · No. 33,436 · Decided November 21, 2013

SUMMARY

The New Mexico Supreme Court affirmed Christopher Sisneros's first-degree murder conviction but held that his felony-murder and shooting-from-a-motor-vehicle convictions violated double-jeopardy protections. The court also addressed the Confrontation Clause and hearsay admissibility of a witness's statements relayed during a 911 call, exclusion of double hearsay offered to impeach that witness, and improper substitute-pathologist testimony concerning autopsy findings. The court found the autopsy-testimony error harmless and remanded for the convictions to be vacated and for resentencing.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Richard C. Bosson, Justice; Petra Jimenez Maes, Chief Justice; Edward L. Chávez, Justice; Charles W. Daniels, Justice; Barbara J. Vigil, Justice
JURISDICTION	New Mexico
DECIDED	November 21, 2013
DOCKET	33,436
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from convictions for first-degree murder, felony murder, shooting from a motor vehicle resulting in great bodily harm, and aggravated fleeing from a law enforcement officer.
STANDARD OF REVIEW	Confrontation Clause claims are reviewed de novo; admission of hearsay is reviewed for abuse of discretion; constitutional evidentiary error is reviewed for harmlessness, and the conviction is affirmed only if there is no reasonable possibility that the error affected the verdict.
PRECEDENTIAL VALUE	Published New Mexico Supreme Court opinion; precedential
PARTIES	Christopher Sisneros v. State of New Mexico

TOPICS

double jeopardy

sixth amendment

hearsay

harmless error

criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Navarro's statements relayed during the 911 call were testimonial statements whose admission violated the Confrontation Clause.
2. Whether Navarro's statements were admissible under the present-sense-impression exception to the hearsay rule.
3. Whether the district court properly excluded an investigator's testimony concerning Navarro's alleged statements to a prison caseworker.
4. Whether allowing a substitute forensic pathologist to testify from the autopsy report and related materials violated Sisneros's confrontation rights.
5. Whether any error in admitting the substitute pathologist's testimony was harmless.
6. Whether Sisneros's convictions for felony murder, first-degree murder, and shooting from a motor vehicle violated double-jeopardy protections.

HOLDINGS

1. Navarro's statements describing the shooter and vehicle were non-testimonial because they were made during an ongoing emergency and were elicited to assist first responders and address danger to the victim, police, and public.
2. The district court did not abuse its discretion by admitting Navarro's statements under the present-sense-impression exception because they described events and the victim's condition contemporaneously with or immediately after Navarro perceived them.
3. The district court properly excluded the investigator's testimony because it constituted double hearsay, and Rule 11-806 does not suspend the other rules of evidence merely because a hearsay declarant's credibility may be attacked.
4. The district court erred by allowing a substitute forensic pathologist with no personal knowledge of the autopsy to repeat subjective observations and statements from the unavailable pathologist's autopsy report.
5. The constitutional error in admitting Dr. Brooks's testimony was harmless because cause and manner of death were undisputed and there was no reasonable possibility that the testimony affected the verdict, which turned on the identity of the shooter.
6. Double-jeopardy protections required the district court to vacate the felony-murder and shooting-from-a-motor-vehicle convictions rather than merely merge the sentences, while the first-degree-murder conviction remained valid.

KEY QUOTATIONS

“However, an expert may not “simply parrot the opinion or subjective statement of the pathologist who performed the autopsy and took the photographs.”” (¶ 30)

“To satisfy double jeopardy protections, the district court judge must explicitly vacate one of the convictions.” (¶ 38)

“We remand to the district court to vacate Defendant’s convictions for felony murder and shooting from a motor vehicle and order that he be re-sentenced in accordance with this opinion.” (¶ 41)

FACTUAL BACKGROUND

Levi Bruce was shot outside his home after a person wearing a dark beanie and sunglasses was observed in a gray Chevrolet Cavalier. Navarro, who was with Bruce when the shooting occurred, reported the shooter and vehicle description through Robyn Bruce's 911 call, and police soon pursued a matching vehicle after it fled. Sisneros was apprehended after abandoning the vehicle, and police found a gun, glove, knit cap, and sunglasses near or inside the vehicle. At trial, a substitute forensic pathologist testified about the autopsy and cause of death, while firearm testimony was inconclusive as to whether the recovered Glock fired the bullets.

PROCEDURAL HISTORY

A jury convicted Sisneros on April 13, 2011. The district court merged the felony-murder and first-degree-murder convictions for sentencing and imposed life imprisonment plus sixteen and one-half years. Sisneros appealed directly to the New Mexico Supreme Court under Article VI, Section 2 of the New Mexico Constitution and Rule 12-102(A)(1) NMRA.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must vacate the convictions for felony murder and shooting from a motor vehicle and resentence Sisneros in accordance with the opinion. The first-degree-murder conviction is affirmed.

CASES CITED

- State v. Gurule, 2013-NMSC-025, ¶ 33, 303 P.3d 838
- State v. Navarette, 2013-NMSC-003, ¶¶ 3, 6-8, 21-23, 294 P.3d 435
- Davis v. Washington, 547 U.S. 813, 822 (2006)
- State v. Largo, 2012-NMSC-015, ¶¶ 13, 17-20, 23, 278 P.3d 532
- State v. Leyba, 2012-NMSC-037, ¶¶ 10, 17, 289 P.3d 1215
- State v. Taylor, 1985-NMCA-063, ¶¶ 35-56, 103 N.M. 189, 704 P.2d 443
- State v. Tollardo, 2012-NMSC-008, ¶¶ 25, 28, 36, 44, 275 P.3d 110
- State v. Schoonmaker, 2008-NMSC-010, ¶ 50, 143 N.M. 373, 176 P.3d 1105
- State v. Garcia, 2011-NMSC-003, ¶ 39, 149 N.M. 185, 246 P.3d 1057

- State v. Montoya, 2013-NMSC-020, ¶¶ 54-55, 306 P.3d 426

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