

NEW MEXICO COURT OF APPEALS

State v. Montoya

4 N.M. 367 (2012) · Decided May 24, 2012

SUMMARY

The New Mexico Court of Appeals considered whether excluding evidence of a victim’s prior sexual history with the defendant violated the defendant’s Confrontation Clause rights and the New Mexico rape shield rule. The court held that the proposed evidence did not implicate the defendant’s confrontation rights and that the district court did not abuse its discretion in excluding it. The court also rejected the defendant’s challenge to the jury instructions and affirmed the convictions.

CASE DETAILS

COURT	New Mexico Court of Appeals
WRITING FOR THE COURT	Michael D. Bustamante; Celia Foy Castillo; Michael E. Vigil
JURISDICTION	New Mexico
DECIDED	May 24, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed convictions for kidnapping, aggravated battery against a household member, and interference with communications after the district court excluded evidence of the victim's prior sexual conduct and instructed the jury that attempted criminal sexual penetration was a general-intent crime.
STANDARD OF REVIEW	The court reviewed de novo whether the proffered theory implicated the defendant's Confrontation Clause rights; if implicated, it reviewed de novo the balance between the State's interest in exclusion and the defendant's confrontation rights; it reviewed the district court's application of the rape-shield rule itself for abuse of discretion. Unpreserved jury-instruction claims are reviewed for fundamental error, asking whether a reasonable juror would have been confused or misdirected.
PRECEDENTIAL VALUE	Published New Mexico Court of Appeals opinion; precedential unless otherwise limited by New Mexico law.
PARTIES	Vincent Montoya v. State of New Mexico

TOPICS

criminal procedure evidence sixth amendment jury selection

PRACTICE AREAS

criminal procedure evidence constitutional law

QUESTIONS PRESENTED

1. Whether excluding evidence of the victim's prior sexual history with Montoya violated his rights under the Confrontation Clause.
2. Whether the district court abused its discretion under New Mexico's rape-shield rule by excluding the proposed sexual-history evidence.
3. Whether the jury instructions improperly permitted conviction of kidnapping without proof of the requisite intent, and whether the instructions constituted fundamental error.

HOLDINGS

1. The exclusion did not violate Montoya's Confrontation Clause rights because he did not offer the evidence to challenge the victim's bias, credibility, motive to lie, or the truth or accuracy of her testimony; instead, he sought to introduce additional substantive evidence of his own intent.
2. The district court did not abuse its discretion in excluding the evidence because the proposed evidence was primarily propensity evidence, was not necessary to Montoya's defense, was cumulative of other evidence concerning his intent, and was inflammatory and prejudicial.
3. The jury instructions did not improperly permit conviction of kidnapping based only on general intent, and no fundamental error occurred.

KEY QUOTATIONS

“The Confrontation Clause merely guarantees an opportunity for effective cross-examination; it does not guarantee that the defense may cross-examine a witness in whatever way, and to whatever extent, the defense might wish.” (§ 26)

“We hold that as a matter of law, Defendant has not shown that he has a theory of relevance implicating his right to confront Victim, and therefore his confrontation rights were not violated.” (§ 26)

“We cannot say the district court abused its discretion in denying Defendant’s Rule 11-413 motion.” (§ 27)

FACTUAL BACKGROUND

Montoya and the victim, who had been dating for approximately two years, argued after Montoya sought to have sex and the victim was unwilling. Montoya got on top of the victim and attempted to remove her pants; after she resisted, he bit her inner thigh and pushed her over a table, causing injuries. Montoya claimed he intended consensual make-up sex based on their prior sexual history, while the State argued that he intended to commit a sexual offense. The victim testified that Montoya's conduct appeared to seek her consent, that she was not terrified he would penetrate her, and that he would not have sex with her without her consent.

PROCEDURAL HISTORY

Montoya was charged with kidnapping, attempted criminal sexual penetration, aggravated battery against a household member, and interference with communications. The district court excluded proposed evidence concerning Montoya's prior sexual relationship and alleged make-up sex with the victim under Rule 11-413 NMRA. The jury acquitted him of attempted criminal sexual penetration but convicted him of the other three offenses. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Johnson, 1997-NMSC-036, 123 N.M. 640, 944 P.2d 869
- State v. Henderson, 2006-NMCA-059, ¶ 8, 139 N.M. 595, 136 P.3d 1005
- State v. Stephen F., 2008-NMSC-037, 144 N.M. 360, 188 P.3d 84
- State v. Lopez, 2011-NMSC-035, 150 N.M. 179, 258 P.3d 458
- State v. Lasner, 2000-NMSC-038, 129 N.M. 806, 14 P.3d 1282
- State v. Gonzales, 1999-NMSC-033, 128 N.M. 44, 989 P.2d 419
- State v. Martinez, 2008-NMSC-060, 145 N.M. 220, 195 P.3d 1232
- State v. Lopez, 2000-NMSC-003, 128 N.M. 410, 993 P.2d 727
- State v. Sanders, 117 N.M. 452, 872 P.2d 870 (1994)
- Davis v. Alaska, 415 U.S. 308 (1974)
- State v. Martinez, 1996-NMCA-109, 122 N.M. 476, 927 P.2d 31
- State v. Meadors, 121 N.M. 38, 908 P.2d 731 (1995)
- Delaware v. VanArsdall, 475 U.S. 673 (1986)
- Chambers v. Mississippi, 410 U.S. 284 (1973)
- State v. Rojo, 1999-NMSC-001, 126 N.M. 438, 971 P.2d 829
- State v. Benally, 2001-NMSC-033, 131 N.M. 258, 34 P.3d 1134
- State v. Sandoval, 2011-NMSC-022, 150 N.M. 224, 258 P.3d 1016