

SUPREME COURT OF NORTH DAKOTA

State of North Dakota v. Lansana Solo Sah

Yohan v. Central State Hosp., 4 OCAHO no. 622 (OCAHO 1994) · No. 20190173 · Decided February 12, 2020

SUMMARY

The North Dakota Supreme Court affirmed Lansana Solo Sah's criminal judgment for gross sexual imposition and child abuse. The court held that Sah failed to preserve his evidentiary challenges under N.D.R.Ev. 403 and 404(b) because his motion for a new trial did not state the alleged errors with particularity, and the court declined to review the issue as obvious error.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Gerald W. VandeWalle; Daniel J. Crothers; Jerod E. Tufte; Jon J. Jensen, C.J.
JURISDICTION	North Dakota
DECIDED	February 12, 2020
DOCKET	20190173
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sah appealed from a criminal judgment entered after a jury convicted him of gross sexual imposition and child abuse and the district court denied his motion for a new trial.
STANDARD OF REVIEW	The admission of evidence was challenged under an abuse-of-discretion standard, but the Supreme Court resolved the appeal on preservation grounds. Unpreserved issues are generally reviewed only for obvious error under N.D.R.Crim.P. 52(b).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Lansana Solo Sah v. State of North Dakota

TOPICS

preservation of error appellate procedure evidence criminal procedure relevance

PRACTICE AREAS

criminal procedure evidence appellate procedure

QUESTIONS PRESENTED

1. Whether Sah preserved for appellate review his claim that evidence of physical abuse other than the charged peppering conduct was inadmissible under N.D.R.Ev. 403 and 404(b).
2. Whether the Supreme Court should review the unpreserved evidentiary claim for obvious error.

HOLDINGS

1. Sah failed to preserve the issue because his motion for a new trial did not state with particularity how or why the evidence of other physical abuse was inadmissible and cited no legal authority.
2. The Court declined to review the unpreserved evidentiary issue for obvious error because Sah did not argue obvious error on appeal and therefore did not meet his burden to establish it.

KEY QUOTATIONS

“A motion for a new trial is not necessary for appellate review, but if a defendant moves for a new trial he is limited on appeal to the grounds presented to the district court in the motion.” (¶ 7)

“An issue not raised in the trial court is generally not reviewable on appeal unless it constitutes ‘obvious error’ under N.D.R.Crim.P. 52(b).” (¶ 9)

FACTUAL BACKGROUND

In December 2017, an eleven-year-old child disclosed that Sah, her stepfather, had physically abused her and had sexually abused her, including by placing crushed peppers in her genitals as punishment. A sibling corroborated the physical abuse, and an officer observed and photographed injuries to the child's shoulder. A jury convicted Sah of gross sexual imposition and child abuse after hearing evidence concerning the charged conduct and other physical abuse.

PROCEDURAL HISTORY

Sah was charged in the Cass County District Court with gross sexual imposition and child abuse. After a jury trial, he was convicted and sentenced. He moved for a new trial, arguing that evidence of physical abuse other than the charged peppering conduct was inadmissible; the motion was denied. The Supreme Court of North Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- City of Grand Forks v. Opp, 2017 ND 52, ¶ 6, 890 N.W.2d 821
- City of Fargo v. McLaughlin, 512 N.W.2d 700, 703 (N.D. 1994)
- State v. Kopp, 419 N.W.2d 169, 172 n.2 (N.D. 1988)
- State v. Hart, 1997 ND 188, ¶ 22, 569 N.W.2d 451

- State v. Thomas, 2020 ND 30, ¶ 14

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