

SUPREME COURT OF NEW MEXICO

State v. Sisneros

5 N.M. 134 (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 treatment of statements relayed during a 911 call, impeachment of a hearsay declarant, and the admissibility and harmlessness of substitute forensic-pathologist testimony. The case was remanded for vacation of the specified convictions and resentencing.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Richard C. Bosson; Petra Jimenez Maes; Edward L. Chávez; Charles W. Daniels; Barbara J. Vigil
JURISDICTION	New Mexico
DECIDED	November 21, 2013
DOCKET	33,436
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from criminal convictions and sentence following a jury trial.
STANDARD OF REVIEW	Confrontation Clause claims are reviewed de novo; hearsay rulings are reviewed for abuse of discretion; constitutional evidentiary error is reviewed under the constitutional harmless-error standard, requiring affirmance only when there is no reasonable possibility that the error affected the verdict.
PRECEDENTIAL VALUE	published precedential opinion
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 practice

QUESTIONS PRESENTED

1. Whether admission of Navarro's statements relayed during the 911 call violated the Confrontation Clause because Navarro was unavailable for cross-examination.
2. Whether Navarro's statements were admissible under the present-sense-impression exception to the hearsay rule.
3. Whether the defense investigator could testify about statements allegedly made by Navarro to a prison caseworker for impeachment purposes.
4. Whether allowing a substitute forensic pathologist to testify about an autopsy based on the original pathologist's report and subjective observations violated the Confrontation Clause.
5. Whether the challenged autopsy testimony was harmless beyond the applicable constitutional standard.
6. Whether the convictions for felony murder and shooting from a motor vehicle violated double-jeopardy protections when based on the same conduct as the first-degree murder conviction.

HOLDINGS

1. Navarro's statements were non-testimonial because the 911 operator's questions were directed primarily at addressing an ongoing emergency involving an armed and uncaptured shooter, not at establishing past facts for later prosecution.
2. The district court did not abuse its discretion by admitting Navarro's statements under the present-sense-impression exception.
3. The district court properly excluded the investigator's testimony because it constituted double hearsay, and Rule 11-806 does not suspend other evidentiary requirements merely because a hearsay declarant's credibility may be attacked.
4. The district court committed constitutional error by allowing Dr. Brooks, who did not perform the autopsy, to testify essentially by parroting the subjective statements and observations of Dr. Aurelius, whom the defense had no opportunity to cross-examine.
5. The constitutional error was harmless because the cause and manner of death were undisputed and there was no reasonable possibility that the challenged testimony affected the verdict, which turned on the identity of the shooter.
6. The felony-murder conviction and the shooting-from-a-motor-vehicle conviction had to be vacated because merging sentences does not satisfy double-jeopardy protections, and the convictions were based on unitary conduct also supporting the first-degree murder conviction.

KEY QUOTATIONS

“Even though Rule 11-806 allows a hearsay declarant’s credibility to be attacked, it does not suspend the other rules of evidence to do so.” (¶ 24)

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

“This Court has stated that merging the sentence of the lesser offense into the greater to be served concurrently does not satisfy the constitutional requirements protecting a citizen from double jeopardy.” (¶ 38)

FACTUAL BACKGROUND

Levi Bruce was shot outside his home after a witness observed a person wearing a dark beanie and sunglasses in a gray Chevrolet Cavalier. Shortly after the shooting, the witness relayed a description of the shooter and vehicle during a 911 call, and police pursued a matching vehicle that Sisneros abandoned before fleeing on foot. Police recovered a firearm and glove near the vehicle and additional clothing items from inside it, but firearm testing could not determine whether the recovered bullets had been fired from the recovered Glock.

PROCEDURAL HISTORY

A Bernalillo County jury convicted Sisneros of first-degree murder, felony murder, shooting from a motor vehicle resulting in great bodily harm, and aggravated fleeing from a law enforcement officer. 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, which affirmed the first-degree murder conviction but remanded for vacation of the felony-murder and shooting-from-a-motor-vehicle convictions and resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court to vacate the felony-murder and shooting-from-a-motor-vehicle convictions and resentence Sisneros in accordance with the opinion, while affirming the first-degree murder conviction.

CASES CITED

- State v. Gurule, 2013-NMSC-025, 303 P.3d 838
- State v. Navarette, 2013-NMSC-003, 294 P.3d 435
- Davis v. Washington, 547 U.S. 813 (2006)
- State v. Largo, 2012-NMSC-015, 278 P.3d 532
- State v. Leyba, 2012-NMSC-037, 289 P.3d 1215
- State v. Taylor, 1985-NMCA-063, 103 N.M. 189, 704 P.2d 443
- State v. Tollardo, 2012-NMSC-008, 275 P.3d 110
- State v. Schoonmaker, 2008-NMSC-010, 143 N.M. 373, 176 P.3d 1105
- State v. Garcia, 2011-NMSC-003, 149 N.M. 185, 246 P.3d 1057

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

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-mexico-supreme-court-of-new-mexico/2013/state-v-sisneros-qlhutos0>