

SUPREME COURT OF NEW MEXICO

State of New Mexico v. Robert Macias

210 P.3d 804 (N.M. 2009) · No. No. 30,741 · Decided May 26, 2009

SUMMARY

The New Mexico Supreme Court held that the trial court improperly admitted hearsay statements from recorded jail telephone calls involving statements attributed to Jessica Gutierrez about Robert Macias's alleged role in a shooting. The court rejected the State's arguments that the statements were admissible for impeachment, to refresh recollection, or under hearsay exceptions including present sense impression and excited utterance. Because the error was not harmless, the court vacated Macias's convictions and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Chávez, Chief Justice; Patricio M. Serna; Petra Jimenez Maes; Richard C. Bosson; Charles W. Daniels
JURISDICTION	New Mexico
DECIDED	May 26, 2009
DOCKET	No. 30,741
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his convictions for first-degree murder and shooting at a motor vehicle resulting in great bodily harm, challenging the admission of hearsay statements contained in recorded jail telephone calls.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion. A trial court abuses its discretion when it exercises discretion based on a misunderstanding of the law. Nonconstitutional evidentiary error is harmless only when there is no reasonable probability that the error affected the verdict.
PRECEDENTIAL VALUE	Published New Mexico Supreme Court opinion; precedential.
PARTIES	Robert Macias v. State of New Mexico

TOPICS

hearsay

evidence

criminal procedure

harmless error

appellate procedure

PRACTICE AREAS

Evidence

Criminal procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the recorded telephone conversation and transcript containing Jessica Gutierrez's out-of-court statements were inadmissible hearsay.
2. Whether the statements could properly be admitted for impeachment or to refresh the witnesses' recollections.
3. Whether the statements qualified under the present-sense-impression, excited-utterance, business-records, or recorded-recollection exceptions to the hearsay rule.
4. Whether the erroneous admission of the statements was harmless.

HOLDINGS

1. The statements were out-of-court statements offered to prove the truth of the matters asserted and therefore constituted hearsay under Rule 11-801(C) NMRA.
2. The State did not properly impeach Eric or Jessica with the recorded statements, and the recording and transcript could not be admitted for the jury's use as substantive evidence merely by characterizing their use as impeachment.
3. The State did not comply with the permissible procedure for refreshing recollection, and the recording and transcript were not admissible as substantive exhibits for the jury under the guise of refreshing recollection.
4. The statements did not qualify as present-sense impressions, excited utterances, records of regularly conducted activity, or recorded recollections.
5. The erroneous admission of the hearsay statements was not harmless because there was a reasonable probability that the statements affected the jury's verdict.

KEY QUOTATIONS

"In the absence of a reasonable explanation of how the statements might have been offered for anything other than the truth, we must conclude that they were, in fact, admitted for truth." (at 815)

"In the face of this evidence, we are compelled to hold that the trial court's admission of the hearsay statements was not harmless." (at 816)

"The trial court abused its discretion in admitting the hearsay statements of Jessica Gutierrez and the error was not harmless. We vacate Defendant's convictions and remand for a new trial consistent with this opinion." (at 817)

FACTUAL BACKGROUND

Police discovered Wilfred Salas, Jr. dead in a crashed vehicle after reports of gunshots and a car accident; the medical investigator determined that Salas died from a gunshot wound to the head. At trial, the State introduced a recorded jail telephone call between Eric Gutierrez and Jessica Gutierrez, in which Jessica made statements indicating that Macias shot Salas and that Macias had told her about the shooting. Neither Eric nor Jessica testified that they remembered the substance of the conversation, and the jury later requested a CD player to replay the recording during deliberations before using the transcript.

PROCEDURAL HISTORY

Macias was tried and convicted in the district court. The State introduced a recorded telephone conversation and transcript containing statements by Jessica Gutierrez that incriminated Macias. The Supreme Court of New Mexico held that the statements were inadmissible hearsay and that their admission was not harmless, vacated the convictions, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The convictions were vacated and the case was remanded for a new trial consistent with the opinion.

CASES CITED

- State v. McClaugherty, 2003-NMSC-006, ¶¶ 17, 27, 133 N.M. 459, 64 P.3d 486
- State v. Lente, 2005-NMCA-111, ¶ 3, 138 N.M. 312, 119 P.3d 737
- State v. Boyett, 2008-NMSC-030, ¶ 25, 144 N.M. 184, 185 P.3d 355
- State v. Hermosillo, 88 N.M. 424, 432, 540 P.2d 1313, 1321 (Ct. App. 1975)
- State v. Dominguez, 2007-NMSC-060, ¶ 18, 142 N.M. 811, 171 P.3d 750
- State v. Spadafore, 159 W. Va. 236, 220 S.E.2d 655, 656 (1975)
- State v. Bazan, 90 N.M. 209, 212, 561 P.2d 482, 485 (Ct. App. 1977)
- State v. Orona, 92 N.M. 450, 454-455, 589 P.2d 1041, 1045-1046 (1979)
- State v. Martinez, 99 N.M. 48, 51, 653 P.2d 879, 882 (Ct. App. 1982)
- State v. Martinez, 102 N.M. 94, 99, 691 P.2d 887, 892 (Ct. App. 1984)
- Garcia v. State, 126 S.W.3d 921, 926-927 (Tex. Crim. App. 2004)
- State v. Allison, 2000-NMSC-027, ¶ 30, 129 N.M. 566, 11 P.3d 141
- State v. Downey, 2008-NMSC-061, ¶ 39, 145 N.M. 232, 195 P.3d 1244
- State v. Barr, 2009-NMSC-024, ¶¶ 53, 56, 210 P.3d 198 (2009)
- State v. Holly, 2009-NMSC-004, ¶ 28, 145 N.M. 513, 201 P.3d 844
- State v. Martinez, 2008-NMSC-060, ¶ 44, 145 N.M. 220, 195 P.3d 1232
- State v. Alvarez-Lopez, 2004-NMSC-030, ¶ 34, 136 N.M. 309, 98 P.3d 699

