

SUPREME COURT OF NEVADA

Bailey v. State

120 Nev. 406 (2004) · Decided June 15, 2004

SUMMARY

The Nevada Supreme Court held that the extended statute of limitations in NRS 171.095(1)(b) applied to a charge of lewdness with a child under fourteen because the offense constituted sexual abuse of a child under NRS 432B.100. Because the victim knew of the abuse and was under twenty-one when the complaint was filed, the prosecution was timely and the conviction was affirmed.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Per Curiam; Agosti; Becker; Gibbons
JURISDICTION	Nevada
DECIDED	June 15, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bailey pleaded guilty to lewdness with a child under fourteen while reserving the right to seek dismissal on statute-of-limitations grounds and to appeal an adverse ruling. The district court denied his motion to dismiss, and Bailey timely appealed.
STANDARD OF REVIEW	Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Daniel Bailey v. State of Nevada

TOPICS

[criminal procedure](#) [statutory interpretation](#)

PRACTICE AREAS

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QUESTIONS PRESENTED

- Whether the three-year statute of limitations for felonies committed in a secret manner under NRS 171.095(1)(a) governed the prosecution.

2. Whether lewdness with a child under fourteen constitutes sexual abuse of a child under NRS 432B.100, making the extended limitations period in NRS 171.095(1)(b) applicable.
3. Whether the State timely filed the charging document before the victim reached age twenty-one.

HOLDINGS

1. Lewdness with a child under fourteen under NRS 201.230 is an offense constituting sexual abuse of a child under NRS 432B.100; therefore, the extended limitations period in NRS 171.095(1)(b), rather than the general three-year period in NRS 171.085 and NRS 171.095(1)(a), applies.
2. When the victim discovers or reasonably should have discovered the sexual abuse by age twenty-one, a charging document may be filed any time before the victim reaches age twenty-one, regardless of when the offense was discovered.
3. The prosecution was timely because the victim, born in June 1989, was under twenty-one when the complaint was filed on May 8, 2002; the limitations period therefore extended until June 2010.

KEY QUOTATIONS

“Accordingly, where child victims discover or reasonably should have discovered they were the victims of sexual abuse, an information or complaint may be filed any time before the child victim of the abuse reaches the age of twenty-one.” (at 407)

“The plain language of the statute indicates that, regardless of when the crime was discovered, the State may file a charging document up to the time the child victim reaches age twenty-one.” (at 409)

“Therefore, we affirm the judgment of conviction.” (at 409)

FACTUAL BACKGROUND

Bailey committed a lewd act with a six-year-old child sometime between January 1, 1995, and January 1, 1996. The child reported the incident to her mother in June 1996 and later reported it to a school counselor in October 2001, prompting notification of authorities and an investigation. The State filed a complaint on May 8, 2002, when the victim was still under twenty-one.

PROCEDURAL HISTORY

The State filed a complaint on May 8, 2002, and an information on June 6, 2002, charging Bailey with lewdness with a child under fourteen. The district court held that the extended limitations period for offenses constituting sexual abuse of a child applied and that the charge was timely. Bailey appealed after entering a guilty plea with a reservation of his limitations challenge.

DISPOSITION

affirmed

CASES CITED

- Associated Bldrs. v. So. Nev. Water Auth., 115 Nev. 151, 156, 979 P.2d 224, 227 (1999)
- SIIS v. United Exposition Services Co., 109 Nev. 28, 30, 846 P.2d 294, 295 (1993)
- State v. Quinn, 117 Nev. 709, 712, 30 P.3d 1117, 1119 (2001)

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