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Summary of *Maestas v. State*, 128 Nev. Adv. Op. No. 12

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CRIMINAL PROCEDURE – CAPITAL PUNISHMENT

Summary

The Court considered consolidated appeals from a first-degree murder conviction and an order denying a motion for new trial in a death penalty case.

Disposition/Outcome

The Court concluded that there were no errors in the original trial and sentencing that would warrant a new penalty hearing. Accordingly, the Court affirmed the judgment of conviction and the order denying a motion for a new trial.

Factual and Procedural History

In January 2003, Appellant Beau Maestas (“Maestas”) attempted to purchase methamphetamine from a dealer in Mesquite, NV. The dealer did not have the drugs and directed Maestas to a married couple, whom Maestas found at a casino in Mesquite. There, Maestas purchased what he thought was methamphetamine from the couple for \$125, but the bag actually contained salt. Maestas returned to the casino, fought with the seller, and was escorted from the premises.

Maestas and his sister then went to his girlfriend’s home, where he asked for a knife. The three then drove to the RV Park where the salt-selling couple lived. Maestas initially went to the couple’s trailer alone, but returned to the car when the two little girls inside refused to let him in. Leaving his girlfriend to watch for the couple, Maestas went back to the trailer with his sister. The siblings returned to the car approximately 10 to 15 minutes later. Maestas’ hands and clothing were covered in blood. He then went to his grandmother’s house to clean up and get her car. On the way, both siblings discussed stabbing the little girls. Maestas, his girlfriend and his grandmother then fled to Utah.

The first officer to respond to the scene found two girls, ages 3 and 10, with numerous stab wounds all over their bodies. The younger girl was unconscious and died at the hospital. The older girl survived but suffered a stab wound that severed her spine, leaving her paraplegic. Evidence collected at the scene connected Maestas and his sister with the crime.

After authorities detained Maestas, he confessed to the attack, claiming that he acted alone. He later pleaded guilty to multiple charges, including first-degree murder. The State also filed a notice of intent to seek the death penalty based on two aggravating circumstances: (1) the murder occurred in the commission of a burglary and (2) the victim was under 14 years of age. The first jury was unable to reach a verdict on the sentence for his first-degree murder charge, so the district court called a mistrial and assembled a second jury. At the second hearing, the State

¹ By Richard A. Andrews

presented the victim's age as the only aggravating circumstance, and introduced the physical and psychological impact of the crime upon the older sister.

As mitigating factors, Maestas focused on his youth (19 at the time of the crime), abusive childhood, drug use, stunted cognitive functioning, admission of guilt, and remorse. Testimony from Maestas' family and a psychologist supported these claims.

The jury unanimously found the victim's age proven beyond reasonable doubt. The jury did find mitigating circumstances, but it found that that aggravating circumstance outweighed the mitigating circumstances and sentenced Maestas to death. Maestas appealed.

While that appeal was pending, one of the jurors contacted Maestas' counsel because she had second thoughts about the verdict. She claimed that the jury foreperson made comments about the case and used special information during deliberations. As a result, Maestas filed a motion for a new trial.

During an evidentiary hearing, the district court found the claims of the newly dissenting juror not credible for several reasons and the testimony of the other jurors to be conflicting and, in some cases, inadmissible because it was part of the deliberative process. Furthermore, the court found the foreperson credible. Therefore, the district court dismissed Maestas' claims of misconduct, which Maestas appealed.

Discussion

Justice Cherry wrote for the unanimous Court, seated en banc. The Court principally focused on two of Maestas' claims: (1) NRS 175.556 violates the Eighth Amendment and (2) allegations of jury misconduct. The Court began by addressing the constitutional challenge to NRS 175.556, which allowed the district court to choose between a life-without-parole sentence or a second jury after the first jury could not come to a unanimous verdict.² The Court then addressed the issues related to the motion for a new trial as well as Maestas' other claims, concluded by a mandatory review of the death sentence.³

Constitutionality of NRS 175.556

When the jury is unable to reach a unanimous penalty verdict in a case where the death penalty is sought, NRS 175.556 affords the district court discretion to choose between imposing a life-without-parole sentence and empaneling a new jury to determine the sentence. Maestas argued that NRS 175.556 violates the Eighth Amendment in allowing the district court to expose the defendant to another penalty hearing with the possibility of a death sentence.

The Court disagreed, finding that the statute does not give the district court authority to impose a death penalty, because the possibility of a death sentence is left to the new jury. Furthermore, the new jury can choose a lesser penalty and must consider aggravating and mitigating circumstances in making its decision. The Court held that this process appropriately

² NEV. REV. STAT. § 175.556 (2007).

³ NEV. REV. STAT. § 177.055(2).

channels “the sentencer’s discretion to avoid imposing death in an arbitrary or capricious manner,”⁴ and therefore NRS 175.556 does not violate the Eighth Amendment.

Motion for a New Trial

The Court next considered the motion for a new trial based on jury misconduct and bias. After a review for abuse of discretion, the Court found no clear error. The Court relied on the district court’s credibility determinations in the evidentiary hearing and found no evidence of misconduct. Furthermore, Maestas failed to show the jury intentionally concealed bias against him. Thus, the district court did not abuse its discretion for denying the motion for a new trial.

Remaining Claims

Maestas’ other claims challenged the death sentence based on alleged problems with the charging document, notice of intent to seek the death penalty, the admissibility of evidence presented during the penalty trial, alleged prosecutorial misconduct, and cumulative error. The Court held that none of those claims warranted relief from the judgment of conviction.

Mandatory Review of Death Penalty

The Court finally undertook a mandatory review of the death penalty, as required by Nevada law. Specifically, the Court is required to consider: “(c) Whether the evidence supports the finding of an aggravating circumstances; (d) Whether the sentence of death was imposed under the influence of passion, prejudice or any arbitrary factor; and (e) Whether the sentence of death is excessive, considering both the crime and the defendant.”⁵

The evidence demonstrated beyond a reasonable doubt that the victim was under fourteen years old when she was murdered, proving the aggravating circumstance. Next, the record lacked any indication that the jury acted in any way other than thoughtful and deliberative, as evidenced by the jury’s finding of mitigating factors. Thus, the Court found no reason to find that the jury was influenced by passion, prejudice, or any arbitrary factor.

Finally, the Court considered whether the death sentence was excessive. In so doing, they asked, “[Are] the crime and defendant . . . of the class that warrants the imposition of death?”⁶ Their answer was in the affirmative, as the evidence showed that Maestas got a knife and drove to the trailer park to get revenge. He knew that the girls were alone in the trailer tricked them into letting him in. He then viciously stabbed to death a defenseless three-year-old girl, at which point he cleaned up and fled the state. Despite the fact that Maestas expressed remorse at trial, his letters and comments after the crimes showed little empathy. Accordingly, the Court held that the death penalty in this case was not excessive.

⁴ See *Gregg v. Georgia*, 428 U.S. 153, 206-07 (1976).

⁵ § 177.055(2).

⁶ *Dennis v. State*, 116 Nev. 1075, 1085, 13 P.3d 434, 440 (2000).

Conclusion

When a jury is unable to reach a unanimous penalty verdict in a case where the death penalty is sought, the discretion granted to district courts by NRS 175.556 to choose between imposing a life-without-parole sentence and empaneling a new jury to determine the sentence does not violate the Eighth Amendment.