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### Summary of Mejia v. State, 122 Nev. Adv. Op. 43

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## *Mejia v. State*, 122 Nev. Adv. Op. 43 (May 25, 2006)<sup>1</sup>

### CRIMINAL LAW – EVIDENCE – DELARATIONS BY ACCUSED

#### Summary

Defendant Mejia appealed a judgment of the Eighth Judicial District Court after a jury convicted him of one count of sexual assault against a minor under 14 years of age and seven counts of lewdness with a minor under 14 years of age. Mejia was sentenced to two concurrent terms of life imprisonment with the possibility of parole in ten years for each count of lewdness.

#### Disposition/Outcome

Affirmed and remanded for correction. The Nevada Supreme Court held that the district court did not err in allowing defendant's admissions into evidence because he was not entitled to *Miranda*<sup>2</sup> warnings as the social worker's interview with defendant did not constitute "extortion" that was designed to incriminate himself. The Court also ruled that Mejia failed to properly preserve the issue of the victim child's competence to testify. The court also held that the State presented sufficient evidence to for a reasonable jury to conclude beyond a reasonable doubt that Mejia had committed sexual penetration of victim necessary to support a conviction for sexual assault. The court remanded for a correction because the judgment entered by the district court did not reflect that Mejia was convicted by jury verdict.

#### Factual and Procedural History

Appellant/Defendant Inner Mejia married in 2003 and moved in with his wife and her two minor daughters, A.W. and R.W., from a previous marriage. At the time, A.W. was 13 years old and R.W. was 12 years old. After a month, evidence showed that Mejia began molesting both girls. The victims testified to numerous incidents where Mejia molested them. After the victims told their mother, she reported it to Child Protective Services (CPS) which began an investigation. As part of the investigation a social worker interviewed the children and after determining the allegations credible removed the children from the home. During this investigation, the social worker spoke to Mejia twice. During one of these conversations, Mejia admitted to touching A.W.'s genital area. The State charged Mejia with one count of sexual assault and seven counts of lewdness with a minor under 14 years of age. After a three-day trial in the Eighth Judicial District Court, a jury convicted defendant on all eight counts. Mejia appealed.

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<sup>1</sup> By David T. Gluth

<sup>2</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

## Discussion

### *1. Miranda Warnings*

On appeal, Mejia argued that his statement to the social worker were inadmissible because the social worker failed to give him *Miranda* warnings before she spoke to him during her investigation of child abuse. The Nevada Supreme Court noted that while Mejia failed to object to the admissibility of his statements during the trial of this matter, it reviewed the *Miranda* issue as it is an important one and reviewed the admissions of Mejia's statements for plain error. A plain error review is one that examines whether there "was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant substantial rights."<sup>3</sup>

Under *Miranda*, a criminal defendant must be given warnings about his right to remain silent and his right to the assistance of counsel before he can be subjected to a custodial interrogation. Mejia argued that his statements to the social worker were compelled in violation of his Fifth Amendment privilege against self-incrimination. Mejia argued that while his questioning by the social worker was not a custodial interrogation, he was told by the social worker that his family would not be reunited unless he made an admission. Mejia argued that the social worker's conduct constituted extortion and warranted a *Miranda* like warning.

The court held that *Miranda* warnings were not required because the social worker's interview with Mejia was not designed to compel self-incrimination but to reunite the family if possible.

### *2. Inadmissibility of statements due to a language barrier*

Mejia also argued that his statement was inadmissible because there was a language barrier between him and the social worker. The court stated that because *Miranda* warnings were not required, they need not consider whether such warnings should have been given in his native language.

### *3. Competence of child witnesses*

Mejia also argued that the district court erred by finding the minor A.W. competent to testify as witness. The court held that Mejia failed to properly preserve the issue of A.W.'s competence to testify and declined to consider it on appeal.

### *4. Sufficiency of evidence*

Additionally, Mejia argued on appeal that there was insufficient evidence to sustain a sexual assault conviction because the State failed to prove there was penetration during his molestation. The court held that A.W.'s testimony that Mejia performed oral sex on her against her will was sufficient evidence to for a reasonable jury to conclude beyond a reasonable doubt that Mejia was guilty conviction for sexual assault against a minor under 14 years of age.

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<sup>3</sup> Mejia v. State, 122 Nev. Adv. Op. 43 (May 25, 2006) (citing Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003)).

### *5. Error in the judgment of conviction*

Finally, the court found that the judgment of conviction incorrectly stated that Mejia was convicted pursuant to a guilty plea not a jury verdict and remanded the case for a correction of the judgment.

### **Conclusion**

The court concluded that the district court did not err in allowing defendant's admissions into evidence because he was not entitled to *Miranda* warnings from the social worker before her interview with defendant. The court also held that Mejia failed to properly preserve the issue of the victim child's competence to testify and that the State presented sufficient evidence to for a reasonable jury to conclude beyond a reasonable doubt that Mejia had committed sexual assault. Therefore, the court affirmed but remanded for a correction because the judgment entered by the district court did not reflect that Mejia was convicted by jury verdict.