

## Scholarly Commons @ UNLV Boyd Law

---

Nevada Supreme Court Summaries

Law Journals

---

12-2021

### Ramos (Gustavo) v. State, 137 Nev., Adv. Op. (Dec. 9, 2021)

Samuel Holt

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>

---

#### Recommended Citation

Holt, Samuel, "Ramos (Gustavo) v. State, 137 Nev., Adv. Op. (Dec. 9, 2021)" (2021). *Nevada Supreme Court Summaries*. 1460.

<https://scholars.law.unlv.edu/nvscs/1460>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

CRIMINAL: INTERPRETING AN EXCEPTION TO THE STATUTE OF LIMITATIONS ON SEXUAL ASSAULT  
OFFENSES

**Summary**

NRS 171.083(1) provides a narrow exception to the, now amended, four-year statute of limitations on prosecuting sexual assault offenses. NRS 171.083 provides that if the “victim of a sexual assault or a person authorized to act on behalf of a victim of a sexual assault files with a law enforcement officer a written report concerning the sexual assault” within the four-year period, then there is no statutory time limit for prosecuting that sexual assault.<sup>2</sup> Here, the Nevada Supreme Court held that a person who discovers a deceased victim’s body is “authorized” within the meaning of NRS 171.083(1) to report the crime on the victim’s behalf. The Court further held that to meet the “written report” requirement under NRS 171.083, an authorized person need only assist law enforcement with the writing of a report and need not have actual knowledge of the sexual assault.

**Background**

In May 1998, two elderly victims were murdered in a retirement facility. The male victim was found bludgeoned to death in his apartment, and the female victim was discovered dead by her friend and son in her apartment. The female victim’s friend and son immediately called the police. The police responded to the scene and collected evidence from both apartments. Evidence included a newspaper with a bloody palm print on it and a blood-stained t-shirt. The female victim’s friend also submitted a written statement to the police. An autopsy report released later indicated that the female victim had been sexually assaulted and stabbed to death. Despite this evidence, police were unable to identify a suspect. Police filed a report that included the autopsy findings and statements from the female victim’s friend and son.

Approximately eleven years later, the State retested the evidence found on the murder scene and obtained a DNA profile from the blood-stained t-shirt. The DNA sample was submitted to the National DNA Index System (CODIS), which returned a match for the defendant—Gustavo Ramos. The State charged Ramos with murdering both victims and with sexually assaulting the female victim.

Ramos moved to dismiss the sexual charge, arguing that the statute of limitations at the time of offense time-barred the State from bringing the charge. At the time of offense, NRS 171.085 set a four-year statute of limitations for sexual assault.<sup>3</sup> However, NRS 171.083(1) provided a narrow exception to the four-year limitation.<sup>4</sup> NRS 171.083 provided that if the “victim of a sexual assault or a person authorized to act on behalf of a victim of a sexual assault files with a law enforcement officer a written report concerning the sexual assault” within the four-year

---

<sup>1</sup> By Samuel Holt.

<sup>2</sup> *Id.*

<sup>3</sup> Law of May 1998, 1997 Nev. Stat., ch. 248, §1 (NEV. REV. STAT. 171.085) (amended in 2015).

<sup>4</sup> NEV. REV. STAT. § 171.083(1).

period, then there is no statutory time limit for prosecuting that sexual assault.<sup>5</sup> Ramos argued that (1) the female victim did not expressly authorize her friend or son to act on her behalf and (2) neither the friend nor son filed a written report concerning the sexual assault. The district court denied Ramos's motion to dismiss, finding that the State met the requirements under NRS 171.083.

Ramos was subsequently found guilty of both murders and the sexual assault and was sentenced to life without the possibility of parole. Ramos then appealed his conviction, arguing, among other things, that the district court improperly interpreted NRS 171.083.

### Discussion

Here, the Nevada Supreme Court began its analysis with its mode of interpretation. First, the Court reviewed the district court's application of NRS 171.083(1) *de novo* because it presented an issue of statutory interpretation.<sup>6</sup> Second, the Court held that it would first look at the statute's plain language to determine its meaning. The Court would only search beyond the statute's language if the statute is ambiguous, being applied beyond its obvious intent, or leads to an absurd result.<sup>7</sup> When looking beyond the plain text of a statute, the Court considers the intent of the legislature in passing the statute in a manner consistent with public policy and reason.<sup>8</sup>

In applying this method, the Court considered whether the female victim's friend and son were "authorized to act on behalf of [the] victim." Ramos argued that, because the female victim died before the sexual assault was discovered, the female victim could not have possibly authorized her friend or son to speak on her behalf. Accordingly, Ramos argued that the statute requires express authorization. The Court, however, disagreed. The Court found that Ramos's interpretation would lead to an absurd result because only surviving victims of sexual assault and not victims that are killed would fall within the confines of NRS 171.083. The Court also found that the language "authorized to act on behalf of [the] victim" contains no requirement of "express authorization." The Court declined to read into the statute an "express" authorization requirement. Accordingly, the Court held that a person who discovers a victim's body is "authorized" within the meaning of NRS 171.083(1) to report the crime on the victim's behalf.

The Court next looked to interpreting the meaning of the phrase "files with a law enforcement officer a written report concerning the sexual assault." The Court first found that the language was ambiguous because it could require the authorized person to create a written report and file it with the police or it could require the authorized person to assist the police in writing and filing a report. Ramos argued for the former interpretation. However, the Court found that such an interpretation would lead to another absurd result in that the authorized person would have to have knowledge of a sexual assault at the time or soon after discovery of the dead victim. The Court further noted that the legislature intended to remove the statute of limitations in sexual assault cases as long as there was a written report of the allegations.<sup>9</sup> Accordingly, here, the Court held that despite neither the victim's friend nor son knowing about the sexual assault at the time of their reports to police, both of their reports to police about the murder sufficed to meet the requirement under NRS 171.083(1). The investigating officer used the friend and son's report in

---

<sup>5</sup> *Id.*

<sup>6</sup> *See State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2004).

<sup>7</sup> *See Newell v. State*, 131 Nev. 974, 977, 364 P.3d 602, 603–04 (2015).

<sup>8</sup> *See Lucero*, 127 Nev. at 95, 249 P.3d at 1228.

<sup>9</sup> *See Hearing on A.B. 97 Before the S. Judiciary Comm.*, 69th Leg. (Nev., May 19, 1997).

their final written report, which was entitled “Murder with a Deadly Weapon/Sexual Assault,” and which detailed the autopsy results that the victim had been sexually assaulted.

Therefore, the Court held that the district court did not err in denying Ramos’s motion to dismiss.

Ramos also appealed seven other issues, and in a two-sentence footnote, the Court summarily dismissed Ramos’s remaining arguments.

### **Conclusion**

Under NRS 171.083(1), a person who discovers a deceased victim’s body is “authorized” within the meaning of NRS 171.083(1) to report the crime on the victim’s behalf. An authorized person need only assist law enforcement with the writing of the report to meet the “written report” requirement under NRS 171.083. Accordingly, the Court affirmed Ramos’s judgement of conviction.