

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDUARDO CAMACHO A/K/A  
EDUARDO SANCHEZ A/K/A ESUARDO  
CAMACHO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49150

**FILED**

JUL 14 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER AFFIRMING IN PART, VACATING IN PART, AND  
REMANDING

This an appeal from a judgment of conviction, entered pursuant to a jury verdict, of one count each of first-degree murder with the use of a deadly weapon, attempted robbery with the use of a deadly weapon, burglary with the use of a deadly weapon, battery with the use of a deadly weapon causing substantial bodily harm, and battery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Eduardo Camacho to serve various concurrent and consecutive terms of imprisonment, amounting to life with the possibility of parole.

Camacho contends that the district court violated his constitutional right to confront his accusers by admitting the pretrial confessions of two nontestifying codefendants during the joint trial. Camacho specifically claims that (1) the codefendants' unsworn confessions implicated him and corroborated his own extrajudicial confession to the police, (2) the district court's limiting instructions to the

jury did not overcome the resulting prejudice, and (3) the confessions were testimonial in nature. Camacho argues that the unconstitutional admission of the codefendants' confessions rendered his verdict unreliable and therefore his conviction must be reversed.

The Confrontation Clause of the Sixth Amendment states, "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him."<sup>1</sup> In Bruton v. United States, the United States Supreme Court held that a defendant is deprived of his rights under the Confrontation Clause when his nontestifying codefendant's confession facially or expressly implicates him as a participant in a crime and is introduced at their joint trial, even if the jury is instructed to consider the statement only in relation to the codefendant.<sup>2</sup> In Richardson v. Marsh, the Court held "that the Confrontation Clause is not violated by the admission of a nontestifying codefendant's confession with a proper limiting instruction when . . . the confession is redacted to eliminate not only the defendant's name, but any reference to his or her existence."<sup>3</sup> In Crawford v. Washington, the Court

---

<sup>1</sup>U.S. Const. amend. VI.

<sup>2</sup>391 U.S. 123, 126 (1968); see also Cruz v. New York, 481 U.S. 186, 193 (1987) (holding "where a nontestifying codefendant's confession incriminating the defendant is not directly admissible against the defendant, the Confrontation Clause bars its admission at their joint trial, even if the jury is instructed not to consider it against the defendant, and even if the defendant's own confession is admitted against him" (internal citation omitted)).

<sup>3</sup>481 U.S. 200, 211 (1987).

held that extrajudicial testimonial statements by a witness that are offered against a defendant are barred under the Confrontation Clause unless the witness is unavailable and the defendant had a prior opportunity to cross-examine the witness.<sup>4</sup>

Here, the State presented the testimony of the police detectives who interviewed two of Camacho's codefendants: Alex Marquez and Brian Snapp. The district court instructed the jury that it could consider the statements attributed to a particular defendant only as they pertain to that defendant and not as they pertain to any of the other defendants. The statements attributed to Marquez and Snapp did not mention Camacho by name, make any reference to his existence, or otherwise implicate him as a participant in the alleged crimes. Under these circumstances, we conclude that admission of Marquez's and Snapp's extrajudicial confessions did not violate Camacho's Sixth Amendment confrontation rights.

Although we have determined that Camacho's contention is without merit, our review of the record on appeal reveals that the district court improperly enhanced his sentence for burglary with a deadly weapon enhancement.<sup>5</sup> Accordingly, we


ORDER the judgment of conviction AFFIRMED IN PART AND VACATED IN PART AND REMAND this matter to the district court

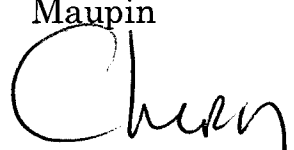
---

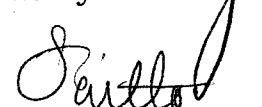
<sup>4</sup>541 U.S. 36, 68 (2004).

<sup>5</sup>See NRS 205.060(4); Carr v. Sheriff, 95 Nev. 688, 601 P.2d 422 (1979).

with instructions to vacate the deadly weapon enhancement on the burglary count and enter a corrected judgment of conviction.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Brent T. Adams, District Judge  
Scott W. Edwards  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk