

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORIO SANCHEZ-CASTRO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66238

SANTIAGO CASTRO-GARCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66239 ✓

**FILED**

JAN 21 2016

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

*ORDER OF AFFIRMANCE*

These are appeals from judgments of conviction, pursuant to guilty pleas, of trafficking in a controlled substance. Fifth Judicial District Court, Esmeralda County; Kimberly A. Wanker, Judge. We elect to consolidate these appeals for disposition. *See* NRAP 3(b)(2).

Appellants Gregorio Sanchez-Castro and Santiago Castro-Garcia first argue the district court erred in concluding they voluntarily and intelligently consented to the search of the vehicle.<sup>1</sup> Consent which is

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<sup>1</sup>The appellants preserved the right to challenge on appeal the district court's adverse rulings regarding the search of the vehicle. *See* NRS 174.035(3).

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“freely and intelligently given, converts a search and seizure which otherwise would be unlawful into a lawful search and seizure.” *State v. Ruscetta*, 123 Nev. 299, 302, 163 P.3d 451, 454 (2007). This court conducts a de novo review of the lawfulness of a search.<sup>2</sup> *McMorran v. State*, 118 Nev. 379, 383, 46 P.3d 81, 83 (2002).

A review of the record reveals the deputy sheriffs stopped a vehicle because it did not illuminate its headlights in a section of a highway where such illumination was required. Sanchez-Castro was the driver of the vehicle and Castro-Garcia was the passenger. Both occupants spoke Spanish and neither party owned the vehicle. A deputy requested permission to search the vehicle and provided appellants with a Spanish-language consent-to-search form. Sanchez-Castro read the form, signed the form, and then stated “[y]eah, go right ahead” and “search, search.” The deputy then discovered methamphetamine and cocaine hidden in speaker boxes in the trunk of the vehicle. A review of the record reveals the district court correctly concluded the appellants consented to a

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<sup>2</sup>We note that Castro-Garcia was not the driver or the owner of the vehicle. Non-owner passengers of a vehicle generally lack standing to challenge a search of a vehicle. See *Scott v. State*, 110 Nev. 622, 627-28, 877 P.2d 503, 507-8 (1994). Neither the parties nor the district court addressed whether Castro-Garcia had standing to challenge the search. Because our resolution of this issue is not necessary for our disposition of this appeal, we decline to address it.

search of the vehicle.<sup>3</sup> *See id.* (stating voluntariness of a consent to search must be proven by clear and convincing evidence).

Second, the appellants argue the district court erred in concluding the search of the vehicle did not exceed the scope of the consent to search. "The scope of consent is determined by examining the totality of the circumstances." *Ruscetta*, 123 Nev. at 302, 163 P.3d at 454. "When applying this totality of the circumstances test, courts must address whether an objectively reasonable officer would have believed that the scope of the suspect's consent permitted the action in question." *Id.* (quotation marks omitted).

A review of the record reveals the consent-to-search form was signed by Sanchez-Castro. The form granted the deputy permission to search "any suspicious paneling, vehicle components, or constructed compartments." During the vehicle search, the deputy discovered a screwdriver and noticed a panel of a speaker box was missing a number of screws. The screwdriver and missing screws caused the deputy to be suspicious of the speaker boxes and therefore, he removed the screws in order to search those compartments. The deputy then discovered methamphetamine and cocaine in those compartments. The district court


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<sup>3</sup>Sanchez-Castro argues the district court failed to specifically find his consent was given voluntarily. A review of the district court's order reveals that the district court did not use that specific term, but the findings of the district court necessarily mean the district court concluded Sanchez-Castro voluntarily consented to the search.

concluded it was reasonable for the deputy to believe he had consent to search in the speaker boxes given the language of the consent-to-search form signed by Sanchez-Castro. Our review of the record reveals the totality of the circumstances in this case permitted the search of the speaker boxes and the district court properly concluded the deputy did not exceed the scope of the consent given. Accordingly, we

ORDER the judgment of convictions AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Kimberly A. Wanker, District Judge  
Law Office of Lisa Chamlee, Ltd.  
David H. Neely, III  
Attorney General/Carson City  
Esmeralda County District Attorney  
Esmeralda County Clerk