IN THE SUPREME COURT OF THE STATE OF NEVADA

MLADEN PECANAC,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37238

FILED

DEC 06 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal, pursuant to a jury verdict, of one count of sexual assault of a child under the age of 14 and one count of lewdness with a minor under the age of 14. The district court sentenced appellant Mladen Pecanac to serve two concurrent terms of life in prison with the possibility of parole.

Pecanac first contends that the district court erred in admitting statements made by Pecanac because they were involuntary and made in violation of his Miranda rights.[1] We disagree.

"A confession is admissible only if it is made freely and voluntarily, without compulsion or inducement."[2] A confession is involuntary if implicit or explicit promises by police officers tricked the defendant into confessing.[3] When determining whether a confession is voluntary, the district court must review the effect of the totality of the

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[1]Miranda v. Arizona, 384 U.S. 436 (1966).

[2]Passama v. State, 103 Nev. 212, 213, 735 P.2d 321, 322 (1987).

[3]Id. at 215, 735 P.2d at 323.

01-20438

circumstances on the defendant's will.[4] This court will not reverse the district court's findings of fact where substantial evidence exists to support the findings.[5]

In the instant case, the district court found that Pecanac's statements were volunteered and spontaneous, and were therefore not made in violation of his Miranda rights. We conclude that substantial evidence supports the district court's finding.

The record reveals that immediately after Pecanac was arrested, a law enforcement officer read him his Miranda rights and asked him if he understood. After initially answering "yes," Pecanac then requested an interpreter. Pecanac was a native of Bosnia, and did not speak English fluently. Because a Serbian-language interpreter was not readily available, the law enforcement officer left Pecanac in his patrol car and proceeded to interview the victims, several eleven-year-old boys and their families. When the officer returned to the patrol car to retrieve some forms, the defendant spontaneously stated "I'm a good man. I don't like rape. I don't like violence." Pecanac also stated that he wanted to talk to the parents of the boys because they had stolen $50.00 from him. There is no indication that a law enforcement officer was questioning Pecanac at the time that he made the statements. Accordingly, we conclude that the district court did not err in admitting Pecanac's statements because its finding that the statements were voluntary and did not violate Miranda is supported by substantial evidence.

Pecanac also contends that the district court erred in allowing the prosecutor to ask leading questions of Joann Behrman Lippert, Pecanac's expert on abused children. We disagree.

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[4]Id. at 214, 735 P.2d at 323.

[5]Chambers v. State, 113 Nev. 974, 981, 944 P.2d 805, 809 (1997).

This court has stated that "[w]hether leading questions should be allowed is a matter mostly within the discretion of the trial court, and any abuse of the rules regarding them is not ordinarily a ground for reversal."[6] Here, we cannot conclude that reversal is warranted because Pecanac has neither specified which questions were improper nor alleged that he was prejudiced by such questions. We therefore conclude that Pecanac's argument lacks merit.

Having considered Pecanac's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Shearing, J.

Rose, J.

Becker, J.

cc: Hon. J. Michael Memeo, District Judge
Attorney General/Carson City
Elko County District Attorney
Elko County Public Defender
Elko County Clerk

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[6]Anderson v. Berrum, 36 Nev. 463, 470, 136 P. 973, 976 (1913); see also Barcus v. State, 92 Nev. 289, 291, 550 P.2d 411, 412 (1976); NRS 50.115(3).