

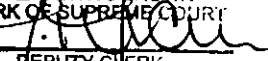
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MALIK RASHAN SERRANO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88727-COA

FILED

JUN 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Malik Rashan Serrano appeals from a judgment of conviction, entered pursuant to a no contest plea, of attempted lewdness with a child under 14 years of age and indecent or obscene exposure in the presence of a child or vulnerable person. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Serrano challenges the district court's evidentiary rulings made in relation to a motion to suppress. After receiving a report that Serrano had sexually abused two of his girlfriend's nieces, Detective Jaime Sandoval interviewed Serrano outside of Serrano's apartment. During this recorded interview, Serrano admitted to touching one of the girls' genitalia and to pulling his pants down in front of the child and forcing her to touch his penis. Thereafter, Serrano filed a motion to suppress his confession. In particular, Serrano contended his confession was not voluntary because (1) he was particularly susceptible to coercion due to his low average intelligence, social deficiencies, and extreme anxiety; (2) he was questioned in a highly intimidating atmosphere; (3) he was under time pressure during questioning because he was late to work; and (4) he only told law enforcement what they wanted to hear.

Serrano entered a conditional *Alford*¹ plea, permitting him to withdraw his plea if his motion to suppress was granted and to appeal the ruling on the motion if the motion was denied. The district court held an evidentiary hearing on the motion to suppress over several days. On April 21, 2023, Serrano requested that his expert, Dr. Herbert Coard, be permitted to observe Detective Sandoval's testimony. The district court stated that it would permit Dr. Coard to observe the proceedings, but the hearing ended shortly after Detective Sandoval's testimony began due to technological issues. Detective Sandoval testified again on May 24, 2023; however, Dr. Coard was unable to attend this hearing. Thereafter, the State filed a motion to limit the scope of Dr. Coard's testimony, and Serrano filed a motion to permit Dr. Coard to review the transcript of Detective Sandoval's testimony.

On the morning of September 15, 2023, the district court entered a written order stating Dr. Coard "may testify to the Defendant's psychological condition and about false confessions generally" but could not "testify as to the video recording of the interrogation or the transcript of the same in any way, as to opine on whether he or she believes the Defendant made a false confession." Later that day, the district court held a hearing, in which the parties discussed the district court's order and the scope of the expert testimony to be presented. The district court stated that the experts could not "connect[] the dots" and opine that the specific interrogation led to a false confession. Defense counsel inquired if the experts could opine as to what techniques Detective Sandoval used without saying they amounted to a false confession, and the district court stated that it did not "have a

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

problem with them simply identifying that this technique appears to be present.”

Regarding the motion to permit Dr. Coard to review the transcript of Detective Sandoval’s testimony, defense counsel indicated that Dr. Coard had reviewed the video recording of the interview but that review of Detective Sandoval’s testimony would assist Dr. Coard in determining “the psychological technique that was being used during the investigation” because Detective Sandoval had denied using the “Reid technique.”² The district court determined it was not necessary for Dr. Coard to review Detective Sandoval’s testimony because Dr. Coard could determine whether any technique was present regardless of Detective Sandoval’s intent.

For the defense, Dr. Coard testified regarding persons who are more vulnerable to making a false confession, key interrogation tactics used by law enforcement, the Reid technique, the risk factors associated with false confessions and which of those factors applied to Serrano, and how false confessions are internalized. For the State, Dr. Melissa Piasecki testified as to Serrano’s cognitive abilities, the frequency of false confessions, and whether certain risk factors applied to Serrano.

Thereafter, the district court entered a written order denying the motion to suppress. In particular, the district court found that (1) Serrano was 25 years old at the time of questioning; (2) Serrano appeared to understand the questioning and responded articulately and with confidence; (3) the interview lasted approximately 46 minutes; (4) no physical punishment was used during the interview; (5) Serrano was free to

²The parties disputed below what the “Reid technique” encompasses; however, it generally refers to a manual of interrogation techniques. See *Brant v. State*, 130 Nev. 980, 985 n.2, 340 P.3d 576, 580 n.2 (2014).

cease the questioning at any time; (6) the interview was conducted in a non-threatening manner, with the officer using a friendly tone throughout; (7) Serrano was questioned in front of his own apartment with his girlfriend present; (8) Serrano had requested that his girlfriend be present for the interview; and (9) Serrano expressed no urgency to conclude the interview to attend some other urgent obligation or commitment. The district court concluded that, even if Serrano was of lower intelligence, the totality of the circumstances indicated his confession was voluntarily given. The district court further stated that it was not determining whether Serrano's confession was false because that was a "question of weight" that "is appropriately left to the province of the factfinder, a duly empaneled jury."

On appeal, Serrano first contends the district court abused its discretion by limiting the scope of Dr. Coard's testimony.³ In particular, Serrano contends Dr. Coard was precluded from testifying as to "any specific psychological coercion employed during the interrogation" and from comparing the techniques used by Detective Sandoval to widely accepted interrogation protocols and best practices. "The district court has wide discretion to determine the admissibility of expert testimony on a case-by-case basis," *Brant v. State*, 130 Nev. 980, 984, 340 P.3d 576, 579 (2014) (internal quotation marks omitted), and this court "review[s] a district court's evidentiary rulings for an abuse of discretion," see *Chavez v. State*, 125 Nev. 328, 339, 213 P.3d 476, 484 (2009).

³We reject the State's argument that Serrano waived his evidentiary claims on appeal because he only preserved the right to appeal the "ruling on the motion to suppress." The evidentiary rulings challenged on appeal were made in relation to the motion to suppress and were thus intertwined with the motion's resolution.

In its September 15, 2023, order, the district court precluded expert witnesses from testifying “as to the video recording of the interrogation or the transcript of the same in any way, *as to opine on whether he or she believes the Defendant made a false confession.*” (Emphasis added.) The district court clarified its order at the subsequent hearing, saying Dr. Coard could not state the interrogation techniques employed resulted in a false confession. When defense counsel asked if Dr. Coard could testify as to the specific interrogation techniques used by Detective Sandoval without stating they resulted in a false confession, the district court said it would allow such testimony. Therefore, the record indicates the district court did not limit Dr. Coard’s testimony in the manner alleged by Serrano.⁴

Further, even assuming the district court abused its discretion by limiting the scope of Dr. Coard’s testimony, any error was harmless. *See Crane v. Kentucky*, 476 U.S. 683, 685-86, 691 (1986) (stating a trial court’s erroneous ruling precluding “testimony bearing on the circumstances under which the confession was obtained” is subject to harmless error review).

⁴To the extent the district court precluded Dr. Coard from testifying that Detective Sandoval’s interrogation techniques resulted in a false confession, the district court did not abuse its discretion. Although “the circumstances surrounding the taking of a confession can be highly relevant to” both questions of voluntariness and falsity, these inquiries are distinct, and only the former was before the district court. *Crane v. Kentucky*, 476 U.S. 683, 688 (1986) (stating “the requirement that the court make a pretrial *voluntariness* determination does not undercut the defendant’s traditional prerogative to challenge the confession’s reliability during the course of the trial”). The district court properly determined that the question of whether Serrano’s confession was false was a factual question for a duly empaneled jury. *See id.* (stating that “questions of credibility, whether of a witness or of a confession, are for the jury”).

Although Serrano contended that Detective Sandoval lied about the strength of the evidence against him, “a lie that relates to a suspect’s connection to the crime is the *least likely* to render a confession involuntary.” *Silva v. State*, 113 Nev. 1365, 1369, 951 P.2d 591, 594 (1997) (quotation marks omitted). Moreover, Dr. Coard was permitted to testify to the interrogation tactics associated with false confessions and to the risk factors associated with false confessions.⁵ The district court found that five of the six *Passama* factors “clearly weigh[ed] in favor of the State,” such that the totality of the circumstances demonstrated Serrano’s confession was voluntary even if Serrano lacked intelligence or emotional skills. See *Passama v. State*, 103 Nev. 212, 214, 735 P.2d 321, 323 (1987) (stating factors to consider in determining the voluntariness of a confession include “the youth of the accused; his lack of education or his low intelligence; the lack of any advice of constitutional rights; the length of detention; the repeated and prolonged nature of questioning; and the use of physical punishment such as the deprivation of food or sleep”). Serrano does not challenge the district court’s factual findings on appeal. Thus, we conclude that any additional testimony from Dr. Coard regarding the specific interrogation techniques employed would not have affected the district court’s determination as to voluntariness.


Serrano also contends the district court abused its discretion by precluding Dr. Coard from reviewing Detective Sandoval’s prior testimony. Serrano conceded below that Dr. Coard had reviewed the video recording of the interview. Given this, the district court could reasonably conclude that

⁵Notably, Dr. Coard testified that only 4 of the 17 risk factors for false confessions applied to Serrano, such as Serrano’s suggestibility and his lower cognitive verbal ability.

review of Detective Sandoval's testimony was not necessary to determine which interrogation techniques were present during the interview.

Serrano contends that, because Dr. Coard was precluded from reviewing Detective Sandoval's testimony, he could not demonstrate his confession was a "coerced-compliant" confession and could not prepare "any related analysis for argument purposes." However, Serrano does not specify how reviewing Detective Sandoval's testimony would have enabled him to demonstrate his confession was a "coerced-compliant" confession or what arguments he would have presented had Dr. Coard reviewed this testimony. Therefore, Serrano fails to demonstrate the district court abused its discretion by precluding Dr. Coard from reviewing Detective Sandoval's testimony. Accordingly,⁶ we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

⁶For the reasons previously discussed, we likewise reject Serrano's claim that the district court violated his due process rights by limiting the scope of Dr. Coard's testimony and by precluding Dr. Coard from reviewing Detective Sandoval's testimony.

cc: Hon. Mason E. Simons, District Judge
Jeff Kump, PLLC
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk