



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTIAN BAZQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91001-COA

ORDER OF AFFIRMANCE

Christian Bazquez appeals from a judgment of conviction, entered pursuant to a jury verdict, of seven counts of sexual assault of a minor under 14 years of age and six counts of lewdness with a child under the age of 14. Eighth Judicial District Court, Clark County; Hon. Christy L. Craig, Judge.

Bazquez contends the district court erred by denying the motion to suppress his statement to the police, in which he confessed to having lewd and sexual contact with the victims, because that confession was not freely and voluntarily given. “A confession is admissible only if it is made freely and voluntarily, without compulsion or inducement.” *Passama v. State*, 103 Nev. 212, 213, 735 P.2d 321, 322 (1987). “In order to be voluntary, a confession must be the product of a rational intellect and a free will,” rather than “physical intimidation or psychological pressure.” *Id.* at 213-14, 735 P.2d at 322-23 (internal quotation marks omitted). “Voluntariness must be determined by reviewing the totality of the circumstances, including such factors as the defendant’s age, education, and intelligence; his knowledge of his rights; the length of his detention; the nature of the questioning; and the physical conditions under which the interrogation was conducted.” *Gonzales v. State*, 131 Nev. 481, 488, 354 P.3d 654, 658 (2015). “The question in each case is

whether the defendant's will was overborne when he confessed." *Passama*, 103 Nev. at 214, 735 P.2d at 323. Whether a defendant's confession was voluntarily made presents a mixed question of law and fact, and we give deference to the district court's factual findings but review de novo the ultimate determination about the voluntariness of a statement. *Rosky v. State*, 121 Nev. 184, 190, 111 P.3d 690, 694 (2005).

Bazquez argues his statement was not freely and voluntarily made because he was coerced by multiple references to his belief in God and because of a language barrier.¹ The district court found that the totality of the circumstances, including the length of the questioning, the fact that Bazquez was read his *Miranda*² rights in Spanish, and Bazquez's age, education, and intelligence, demonstrated Bazquez's statement was voluntarily made. The district court also found there was no evidence that the detectives pressured Bazquez into repeating the allegations made against him. The record supports the district court's findings.

The record shows the interrogation lasted 62 minutes and that Bazquez was 35 years old at the time, working in landscaping and home remodeling. When Bazquez asked for an interpreter at the outset of the interrogation, a detective who was a native Spanish speaker and who was certified by the police department as a Spanish translator assisted the

¹To the extent Bazquez asserts the translation of his interrogation with police was inadequate, we conclude he waived such a claim when he represented at the hearing on his motion to suppress that his translation concern had been resolved. Thus, we do not consider any such claim on appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

²*Miranda v. Arizona*, 384 U.S. 436 (1966).

interrogating detective by translating the questions and answers during the interrogation. Bazquez was told his *Miranda* rights in Spanish, and he indicated he understood them. Bazquez was not subject to physical punishment or deprivation of food or sleep, and when he indicated he was in some discomfort, the detectives made sure he was more comfortable before continuing the questioning. The translating detective testified at the hearing on Bazquez's motion to suppress that he believed Bazquez did not have any comprehension issues during the interrogation, as his answers were appropriate to the questions asked and as he would sometimes answer the interrogating detective's questions before they were translated. The translating detective acknowledged one circumstance where Bazquez indicated he did not understand, but the detective thought the statement, in context, did not mean that Bazquez did not understand the questions but rather that he did not know what to say to the allegations being made against him. Based on the totality of the circumstances, Bazquez's statement was not involuntarily made due to a language barrier.

As to Bazquez's contention that his statement was coerced by references to his belief in God, the translating detective noted it was Bazquez who first mentioned God and praying when discussing his reaction when the victims would touch him inappropriately, and the record shows Bazquez made mention of God and praying multiple times before the translating detective asked if Bazquez believed in God, if he believed God forgives, and if he believed God forgives a person who is not sorry. Before the translating detective asked Bazquez those questions, Bazquez had already admitted to inappropriate touching between him and the victims, thus indicating those admissions were not coerced by references to his religion. And even assuming references to God or religion can render a confession coerced, *see Berghuis v. Thompkins*, 560

U.S. 370, 376, 387 (2010) (concluding “[t]he fact that [the detective’s] question referred to [the defendant’s] religious beliefs also did not render [the defendant’s] statement involuntary” and noting “[t]he Fifth Amendment privilege is not concerned with moral and psychological pressures to confess emanating from sources other than official coercion” (quotation marks omitted)), we conclude the totality of the circumstances supports the conclusion that Bazquez made his statement voluntarily. Unlike the case relied upon by Bazquez, in which the California Court of Appeal determined a questioning sheriff relied on his friendship with the defendant and his knowledge and use of her religious beliefs to coerce a confession, *see generally People v. Adams*, 192 Cal. Rptr. 290 (Ct. App. 1983), neither detective was familiar with Bazquez or his religious beliefs before interrogating him, and we conclude the detectives’ brief mentioning of Bazquez’s religion—in direct response to Bazquez first raising the subject—did not overcome Bazquez’s will. Thus, the district court did not err in denying the motion to suppress.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Christy L. Craig, District Judge
Attorney General/Carson City
Clark County District Attorney
The Draskovich Law Group
Eighth District Court Clerk