

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN REATA STANTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39126

FILED

AUG 23 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of one count of lewdness with a child under fourteen years of age and four counts each of statutory sexual seduction and sexual assault of a child under sixteen years of age. The district court sentenced appellant Justin Stanton to various lengthy prison terms including five consecutive life sentences.

The sole issue raised on appeal is whether the district court abused its discretion in denying Stanton's motion for an independent psychological evaluation of the child victims.

The decision to grant or deny a defendant's request for a psychological examination of a child victim is within the sound discretion of the district court.¹ The overriding question that the court must answer when exercising this discretion is whether the defendant presents a compelling reason for the evaluation.² In answering this question, the district court should consider whether (1) the State employed an expert in psychology or psychiatry, (2) there is any evidence that corroborates the victim's testimony, and (3) there is a reasonable basis for believing that

¹Chapman v. State, 117 Nev. 1, 4, 16 P.3d 432, 434 (2001).


²Koerschner v. State, 116 Nev. 1111, 1116, 13 P.3d 451, 455 (2000).

the victim's mental or emotional state may have affected his or her veracity.³

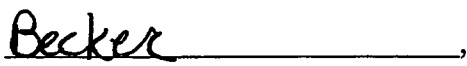
The district court determined that Stanton failed to present a compelling reason for the psychological evaluations. We agree. First, the State did not employ any experts. Second, while the State's case was primarily based on the child victims' testimonies, each of the three victims consistently described the circumstances and locations of the assaults. Finally, Stanton has not presented any reason to believe that the victims' mental or emotional state affected their veracity. Instead, Stanton cites a statement in which the mother of two of the victims describes problems that she had with her brother and the victims' father. This is not a compelling reason to believe that the victims were unable or unwilling to testify truthfully.⁴ Thus, the district court did not err in denying Stanton's motion for a psychological evaluation of the child victims.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

³Id. at 1116-17, 13 P.3d at 455.

⁴See Chapman, 117 Nev. at 5, 16 P.3d at 434 (concluding that the facts of an ugly divorce and animosity between parties involved in the crimes are not compelling reasons to order a psychological evaluation).

cc: Hon. Steve L. Dobrescu, District Judge
Attorney General/Carson City
Elko County District Attorney
Elko County Public Defender
Elko County Clerk