Administrative Office of the Courts

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Supreme Court upholds child sex crime convictions in Doña Ana County case

SANTA FE – The state Supreme Court today affirmed the convictions of a Doña Ana County man for sex crimes against his daughter.

In a unanimous decision, the Court rejected arguments by Rafael Arias that his request for a new trial was wrongly denied by the Third Judicial District Court and that there was insufficient evidence to support his convictions.

Arias was convicted of two counts of first-degree criminal sexual penetration of a child under 13, two counts of second-degree criminal sexual contact of a minor, and two counts of third-degree criminal sexual contact of a minor.

During Arias' trial in 2021, his daughter testified that her father sexually abused her multiple times in 2013 and 2014, when she was in second or third grade. She recalled that it happened during "winter … close to Christmas, December."

At a sentencing hearing, the girl recanted her testimony. The defense requested a new trial based on the daughter's disclosure. The district court conducted two separate hearings on the matter. The State claimed there had been an effort by Arias and others to cause the girl to change her testimony. The State submitted excerpts from jail calls between Arias and an unidentified person and a call between Arias and the girl's mother.

The justices concluded "the district court did not abuse its discretion in finding that the recantation was not credible."

"The district court correctly found that the recantation did not occur under circumstances free from suspicions of undue influence or pressure and that there was the possibility of collusion between Defendant and Victim," the Court explained in the decision written by Justice Briana H. Zamora.

Arias also argued on appeal that testimony by the State's expert witness during his trial had improperly bolstered the credibility of the victim. The witness, a clinical social worker, told the jury she had never encountered an alleged child victim who fabricated a claim of sexual abuse. She also testified that research on the subject of sexual abuse found a high percentage chance of a child telling the truth about alleged abuse.

The Court determined that the testimony was improper but did not constitute an error in the trial that required the reversal of the jury's verdict. The expert witness "noted multiple times that she had not met Victim or anyone in her family," the Court wrote. "Her comments were based on her experience working with child victims *generally,* and on her review of relevant research."

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To read the decision in *State v. Arias*, No. S-1-SC-40904, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/538815/index.do