

WEDNESDAY, MARCH 24, 2010
10:00 A.M.

NO. 2

#25251

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

JULIO JUAREZ RALIOS,
Defendant and Appellant.

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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Patricia C. Riepel
Second Judicial Circuit
Minnehaha County

(CR 08-1368)

20-20-10

LEGAL ISSUES

I

WHETHER THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO SUPPRESS HIS STATEMENTS TO DETECTIVE OLSON.

A. WAS APPELLANT IN CUSTODY?

B. DID APPELLANT KNOWINGLY AND INTELLIGENTLY WAIVE HIS RIGHT TO COUNSEL AND RIGHT AGAINST SELF-INCRIMINATION?

C. WERE APPELLANT'S STATEMENTS VOLUNTARY?

The trial court ruled that Juarez-Ralios knowingly and intelligently waived both his right to counsel, and his right against self-incrimination before being questioned by Detective Olson, and that his statement was voluntary.

Relevant Constitutional Provisions: Article VI, Sections 7 and 9 of the South Dakota Constitution, and the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Relevant cases: Moran v. Burbine, 475 U.S. 412 (1986); State v. Stanga, 2000 SD 129, 617 N.W.2d 486; State v. Tuttle, 2002 SD 94, 650 N.W.2d 20.

II

WHETHER THE TRIAL COURT ERRED IN MAKING EVIDENTIARY RULINGS:

A. ADMITTING THE TAPE OF THE 911 CALL;

B. DENYING APPELLANT'S MOTION IN LIMINE AS TO PLAYING THE VIDEO OF THE INTERROGATION;

C. ALLOWING THE DOCTOR TO OPINE THAT MARKS ON CHAPPINA WERE "CONSISTENT WITH" A SEXUAL ASSAULT;

D. DENYING APPELLANT'S OFFER OF PROOF OF CHAPPINA'S MOTHER'S TESTIMONY.

The trial court allowed into evidence the emotional 911 call, the video of the detective accusing Juarez-Ralios of lying, and the emergency room doctor's opinion that certain marks on Chappina were "consistent with" sexual assault, but denied Appellant's offer of proof.

Relevant Statutes: S.D.C.L. 19-12-2, 19-12-3, and 19-16-6. Relevant Constitutional Provisions: Article VI, Section 2 of the South Dakota Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Relevant cases: City of Auburn v. Hedlund, 201 P.3d 315 (Wash. 2009); State v. Elnicki, 105 P.3d 1222 (Kan. 2005).