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Supreme Court affirms Clovis man's convictions for murder and rape of victim after death

SANTA FE – The state Supreme Court today upheld a Clovis man's convictions for first-degree murder and raping the victim after she had died.

In a precedent-setting decision, the Court unanimously concluded that a murder victim need not be alive at the time of a rape for a conviction under the law against criminal sexual penetration (CSP). In the Clovis case, Lorenzo Martinez fatally stabbed the victim and an hour later moved her body to his bedroom, undressed her and had sexual intercourse twice.

In his appeal, Martinez contended that New Mexico law required a rape victim to be alive at the time of the crime for the criminal statute to apply. The Court disagreed. The case was the first time the state's highest court had addressed the legal issue.

"It is critical to articulate that the CSP statute § 30-9-11, extends protections to victims who are unable to express consent. We therefore determine that it would be contrary to the spirit of the statute to exclude victims who were unable to consent or resist solely because the perpetrator 'rendered the victim permanently unconscious' by killing the victim," the Court concluded in an opinion written by Justice David K. Thomson.

"Therefore, in circumstances where the perpetrator rendered the victim physically helpless by killing the victim before committing the CSP, the deceased victim is a legal person for the limited purpose of applying the CSP statute. As in situations where the perpetrator causes a victim to become unconscious through violent means or by deliberate incapacitation using drugs or alcohol before committing CSP, the perpetrator may not then benefit from the victim's inability to consent," the Court reasoned. "Any other result would be contrary to the purpose and intent of the statute to protect victims from forcible sexual penetration that they did not, or could not, consent to."

The Court noted that the state currently "does not prohibit the act of necrophilia or abuse of a corpse."

“Further, ensuring that the law affords due respect and dignity to the dead in cases where the body of a dead person is sexually penetrated or otherwise used for sexual purposes where the perpetrator did not first kill the victim is a responsibility that we invite the Legislature to undertake,” the Court wrote.

Martinez was sentenced to life imprisonment for the 2017 killing, requiring him to serve at least 30 years before becoming eligible for parole.

In affirming the defendant’s murder conviction, the Court determined there was sufficient evidence that Martinez was sane at the time of the killing. Martinez suffered from schizophrenia and expert witnesses for the defense and prosecution disagreed at trial whether he lacked control over his actions because of the mental illness.

“Here, after hearing from both experts, the jury determined that the Defendant could have prevented himself from acting and was therefore sane. We conclude that the State met its burden by presenting evidence sufficient for a reasonable juror to find that Defendant could have stopped himself from killing Victim, despite Defendant’s schizophrenia diagnosis,” the Court wrote. “In particular, the evidence of enjoyment that Defendant experienced by killing Victim points not to a lack of self-control due to insanity but to an affirmative indulgence in self-gratification. We therefore decline to upset the jury’s finding of sanity.”

Martinez also argued that his schizophrenia prevented him from forming the “deliberate intent” to commit the killing, which is necessary for first-degree murder. However, the Court determined that there was enough evidence for the jury to find that Martinez possessed the required deliberation.

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To read the decision in *State v. Martinez*, No. S-1-SC-37378, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/493365/index.do>