



Administrative Office of the Courts

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Supreme Court overturns convictions in fatal child abuse case

SANTA FE – The state Supreme Court today reversed an Albuquerque man’s convictions of child abuse and conspiracy to commit child abuse in the death of a 14-month-old boy in 2015.

A divided Court ruled there was insufficient evidence to support Christopher Garcia’s convictions of intentional child abuse resulting in death by endangerment through medical neglect. The Court unanimously overturned Garcia’s conspiracy conviction. Garcia was sentenced to life in prison plus an additional four years.

The Court’s majority dismissed both charges because double jeopardy protections prohibit a retrial when there was insufficient evidence to support the defendant’s convictions.

Justice David K. Thomson dissented from the majority decision on the child abuse conviction, but concurred with the majority that Garcia’s conspiracy conviction should be vacated.

Garcia and his wife, Lizy Portillo, were babysitting Isaac Arevalos when the boy suffered injuries that caused multiple bruises to his head and body. Although the toddler lost consciousness, Garcia did not call 911 for emergency medical assistance. He called the child’s mother and told her the boy fell from a bed and struck his head on a nightstand. After returning the child to the mother, Garcia urged her not to tell police that the child had been with him and his wife. The mother summoned paramedics, but the boy died two days later of brain injuries related to oxygen deprivation.

“Isaac’s death was undeniably tragic,” the Court’s majority wrote in an opinion by Justice Barbara J. Vigil. “There is no question that Isaac’s injuries were severe and resulted in his death. Yet, the jury acquitted Defendant of inflicting those injuries or permitting another to inflict those injuries on Isaac. And despite the severity of Isaac’s injuries, we hold the State failed to present sufficient evidence to prove that Defendant caused Isaac’s death by medical neglect or that Defendant and his wife, agreed to abuse Isaac. We are reminded in this case of our responsibility to ensure that convictions are supported by the evidence and not merely by speculation or conjecture.”

For the child abuse conviction to stand, the Court’s majority wrote, prosecutors needed to prove that Garcia was a “factual, but-for cause of the child’s death, or in other words, that the child would not have died when and how the child died absent the defendant’s failure to obtain necessary medical care.”

But no medical expert “testified to a reasonable degree of medical certainty that Isaac would have lived with earlier medical care,” the majority stated.

“The evidence presented in this case failed to establish even that it was more likely than not that Isaac would have lived, or lived longer, had he received immediate medical attention. To convict Defendant, the jury was required to speculate that Isaac might have survived had Defendant immediately called 9-1-1,” the Court’s majority wrote.

In his dissenting opinion, Justice Thomson concluded there was sufficient evidence to support Garcia’s child abuse conviction but there should be a new trial on the charge. The judge’s jury instructions created “juror confusion and misdirection” by not adequately explaining the law on how Garcia could be considered the “proximate” or legal cause of the baby’s death by failing to seek medical assistance, the justice wrote.

The justice also took issue with the majority’s test for determining whether a person charged with child abuse is legally responsible for the victim’s death because of medical neglect.

“I believe it sets an unachievable evidentiary standard,” wrote Justice Thomson. “The possibility that a defendant is culpable because the identified conduct is a significant cause of death is carved out, and a defendant must now be the sole cause of death.”

In overturning Garcia’s conspiracy conviction, the Court found that “while evidence supports that Isaac suffered serious injuries while in the care of Defendant and Portillo, no evidence was presented from which the jury could even infer that Defendant formed an agreement with Portillo to inflict those injuries.”

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To read the decision in *State v. Garcia*, No. S-1-SC-36121, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/490910/index.do>