

67842-6

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EMP

NO. 67842-6-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

EDITH GARCIA-SANCHEZ,

Appellant.

FILED  
COURT OF APPEALS DIVISION I  
STATE OF WASHINGTON  
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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE HELEN HALPERT, JUDGE

BRIEF OF RESPONDENT

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**A. ISSUES PRESENTED**

1. The Court of Appeals determines what standard of review to apply to a given assignment of error. Even if a trial court ruling is labeled as a conclusion of law, the Court of Appeals can acknowledge it to accurately be a finding of fact, or vice versa, and analyze it as such. What is the proper standard of review for a factual finding that was mislabeled as a legal conclusion by the trial court?

2. The intoxication of a suspect only renders a statement by that suspect to law enforcement involuntary if the intoxication rises to the level where the suspect is unable to comprehend what she is doing and saying. Garcia-Sanchez was oriented and coherent throughout Officer Wollan's questioning, and gave appropriate responses to his questions. Garcia-Sanchez also declined to answer Officer Wollan's questions when she did not want to answer them. At trial, Garcia-Sanchez had full recall of the conversation and acknowledged that she knew at the time that she did not need to speak to Officer Wollan. Is there substantial

evidence that Garcia-Sanchez's intoxication did not interfere with the voluntariness of her waiver of her Miranda<sup>1</sup> rights?

3. Before a statement by the defendant to law enforcement can be admitted at trial, the State bears the burden of proving by a preponderance of the evidence that the statement was given voluntarily. Given the Court's findings that Garcia-Sanchez's waiver of Miranda was knowing, intelligent, and voluntary, did the State meet its preponderance burden for the court to conclude that Garcia-Sanchez's statements should be admitted?

**B. STATEMENT OF THE CASE**

**1. PROCEDURAL FACTS**

Juvenile respondent Edith Garcia-Sanchez was charged by information with one count of minor in possession and consumption of liquor. CP 1. The case proceeded by way of a bench trial. At the CrR 3.5 hearing, the court found that Garcia-Sanchez's admissions were admissible. RP 71-72; CP 16-18. At the fact-finding hearing, the court found Garcia-Sanchez guilty of minor in consumption of liquor under RCW 66.44.270(2)(a). CP 10-12, 13-15. The court imposed a standard-range local sanctions disposition. RP 90-91; CP 6-8.

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<sup>1</sup> Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

## 2. SUBSTANTIVE FACTS

In the early morning hours of July 22, 2010, Angelica Sanchez-Lopez was asleep at her home in Tukwila, when her 14-year-old daughter, Edith Garcia-Sanchez, returned home. RP 50-52. Ms. Sanchez-Lopez could smell that Garcia-Sanchez had been drinking alcohol. RP 52. Garcia-Sanchez was also screaming and pushed Ms. Sanchez-Lopez against the television. RP 52. Ms. Sanchez-Lopez called the police to report her daughter's behavior. RP 53.

Tukwila Police Officer Jason Wollan responded to the home and spoke to Garcia-Sanchez. RP 9-14. Garcia-Sanchez was lying on the living room couch, but later sat up to speak to Officer Wollan. RP 15, 25-26. Garcia-Sanchez was exhibiting slurred and mumbling speech, had a watery and glassy appearance to her eyes, was swaying slightly while sitting, and had the odor of alcohol on her breath. RP 14-15, 43-44. Officer Wollan administered a portable breath test (PBT) on Garcia-Sanchez, which registered a 0.103. RP 16-17. Officer Wollan informed Garcia-Sanchez that she was under arrest for Minor in Consumption of Liquor. RP 17. Officer Wollan informed Garcia-Sanchez of her Miranda rights.

RP 17-19. Garcia-Sanchez stated that she understood her rights and agreed to speak to Officer Wollan. RP 19-20.

At that time, although displaying signs of intoxication, Garcia-Sanchez was alert, oriented to time and place, communicating clearly, and able to converse and ask and answer questions. RP 19-20, 44. Although Officer Wollan speculated that a PBT of 0.103 "could be really intoxicated for a 14-year-old," his observations of Garcia-Sanchez were that she was not intoxicated to an extreme degree, but rather something more "middle of the road." RP 48. After that night, Garcia-Sanchez still had full detailed recall of the events of that night and was able to offer explanations for her actions. RP 36-37, 39-41. According to Garcia-Sanchez, she understood that she did not have to answer Officer Wollan's questions, but she decided to answer them so that Officer Wollan would finish his investigation and she could get to sleep. RP 37-38.

When asked about her alcohol consumption, Garcia-Sanchez admitted that she had consumed two alcoholic beverages on a bench near her home. RP 21-22, 35, 41. The specific beverage she drank was watermelon-flavored "Four Locos" – a high-alcohol-content liquor. RP 21. When asked about where she obtained these alcoholic beverages, Garcia-Sanchez said that a

friend had purchased them for her, but she refused to provide any other information about that friend. RP 22, 41.

**C. ARGUMENT**

**1. STANDARD OF REVIEW.**

Garcia-Sanchez challenges the trial court's findings of fact and conclusions of law from the hearing on admissibility of her statements. "Findings of fact entered following a CrR 3.5 hearing will be verities on appeal if unchallenged, and, if challenged, they are verities if supported by substantial evidence in the record." State v. Broadaway, 133 Wn.2d 118, 131, 942 P.2d 363 (1997). Substantial evidence exists when there is a sufficient quantity of evidence in the record to "convince a fair minded, rational person" of the finding's truth. State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). However, conclusions of law from the same hearing are reviewed de novo for whether they were properly derived from the factual findings. State v. Mendez, 137 Wn.2d 208, 214, 970 P.2d 722 (1999); State v. Solomon, 114 Wn. App. 781, 789, 60 P.3d 1215 (2002) (quoting State v. Armenta, 134 Wn.2d 1, 9, 948 P.2d 1280 (1997)).

The Court of Appeals is not bound by the trial court's classification of what is a factual finding and what is a legal

conclusion. Robel v. Roundup Corp., 103 Wn. App. 75, 10 P.3d 1104 (2000). Accordingly, if the trial court erroneously designates a finding of fact as a conclusion of law, the Court of Appeals will nevertheless review it as a finding of fact. State v. Ross, 141 Wn.2d 304, 309, 4 P.3d 130 (2000).

Garcia-Sanchez assigns error to finding of fact 3, and conclusions of law 1, 2, 3, and 5. App. Br. at 1; CP 17. However, conclusions of law 2, 3, and 5 are factual determinations made by the trial court. See CP 17. Although designated as legal conclusions, these involve whether Miranda warnings were applicable in a given situation, whether Garcia-Sanchez waived her Miranda rights, her level of intoxication, and the voluntariness of her statements – all stemming from factual questions before the trial court that are routinely treated on appeal as facts found. CP 17; See, e.g., State v. Ng, 110 Wn.2d 32, 37, 750 P.2d 632 (1988) (holding that a trial court's determination of whether a confession was voluntary will not be disturbed on appeal if supported by substantial evidence). Only conclusion of law 1 is truly a legal conclusion – whether a given set of statements is admissible. See CP 17.

Finding of fact 3 and conclusions of law 2, 3, and 5 should all be reviewed as factual findings to determine if they are supported by substantial evidence. Conclusion of law 1 should be reviewed for whether it was properly derived from the trial court's findings of fact.

**2. VOLUNTARINESS AND ADMISSIBILITY OF GARCIA-SANCHEZ'S STATEMENTS.**

The State bears the burden of proving by a preponderance of the evidence that a suspect's statement to law enforcement was given voluntarily. State v. Braun, 82 Wn.2d 157, 162, 509 P.2d 742 (1973). "Intoxication alone does not, as a matter of law, render a defendant's custodial statements involuntary and thus inadmissible." State v. Turner, 31 Wn. App. 843, 845-46, 644 P.2d 1224 (1982), review denied, 97 Wn.2d 1029 (1982). The court can consider a suspect's intoxication as "a factor in deciding whether the defendant understood his rights and made a conscious decision to forego them." State v. Gardner, 28 Wn. App. 721, 723, 626 P.2d 56 (1981). However, a suspect's intoxication can only cause a statement to be found to be involuntary if the intoxication is of such an extreme degree as to induce mania. State v. Cuzzetto, 76 Wn.2d 378, 383, 457 P.2d 204 (1969). In this context, "mania"

means that a suspect must be so affected that he is unable to comprehend his words and actions. Id. at 386.

In Cuzzetto, the defendant's statements given following a one-car roll-over collision that killed the defendant's passenger were admitted against the defendant at trial. Id. at 378-81. By all accounts, the defendant was intoxicated and suffering from shock when he was questioned. Id. at 379-83. The Court held the defendant's case in sharp contrast with four other cases where courts had found intoxication induced "mania" and thus prevented a knowing, intelligent, or voluntary waiver of Miranda rights. Id. at 383-87. Although the defendant was drunk, he was not drunk to the point of helplessness, hysterical babbling, derangement, or psychotic mental imbalance, nor was he suffering from a severe injury (e.g., facial fracture), as in those other cases, so there was substantial evidence supporting the admission of his statements at trial. Id.

Similarly in State v. Gardner, the court recognized that it was within the trial court's purview to disbelieve the defendant's own assessment of his level of intoxication. 28 Wn. App. 721, 723-24, 626 P.2d 56 (1981). Instead, the trial court relied on an array of other descriptions of the defendant's words and actions that night

which cumulatively demonstrated the defendant was capable of waiving his Miranda rights, regardless of his intoxication. Id. (noting the defendant's physical abilities and displays of cognition); see also United States v. Kelley, 953 F.2d 562, 565 (9th Cir. 1992) (noting that a defendant suffering drug withdrawal was coherent and oriented during his interrogation).

Here, the totality of the circumstances also supports the admission of Garcia-Sanchez's confession. Garcia-Sanchez had full and detailed recall of the events of the night and investigation, even remembering the specific quantity of alcohol she had consumed and that Officer Wollan read her Miranda rights to her from a card. Garcia-Sanchez clearly admitted that she knew she did not need to speak to Officer Wollan, but that she preferred to answer Officer Wollan's questions, so that the investigation would conclude more quickly and she could be left alone to sleep.

Garcia-Sanchez was oriented and coherent throughout the interview, and her answers were appropriate to the questions, even if her mood was inconsistent with the gravity of the situation (e.g., laughing during investigation). Most tellingly, Garcia-Sanchez selected specific information to not provide to Officer Wollan (i.e., the name of her friend who supplied the alcohol), demonstrating not

only that she understood her right to not answer questions, but that she also understood the ramifications of the questions being asked and answered. There is ample evidence in the record to support the trial court's findings that Garcia-Sanchez's intoxication did not interfere with her knowing, intelligent, and voluntary waiver of her Miranda rights.

There were no signs that Garcia-Sanchez was in the throes of an alcohol-induced mania that prevented her from understanding her rights. Garcia-Sanchez cites no authority supporting suppression of her statement as involuntary absent that type of mania noted in Cuzzetto. Garcia-Sanchez was intoxicated enough to induce a slight sway while she was sitting, inappropriate laughter, a self-assessment of intoxication, and her mother noting that she slept most of the next day. This hardly overwhelms the other evidence relied on by the trial court in finding Garcia-Sanchez's waiver to be voluntary.

As in Gardner, this Court should not disturb the trial court's findings that Garcia-Sanchez was able to understand her rights, make a knowing, intelligent, and voluntary waiver of those rights, and speak to Officer Wollan, despite her intoxication. There is substantial evidence for the court to have relied upon and the trial

court's oral and written findings make it clear that the court did rely on that evidence.

The trial court's legal conclusion that Garcia-Sanchez's statements were admissible was properly derived from the factual findings made by the court. There are no impediments to the voluntariness and admissibility of Garcia-Sanchez's statements, and this Court should similarly find that her statements are admissible.

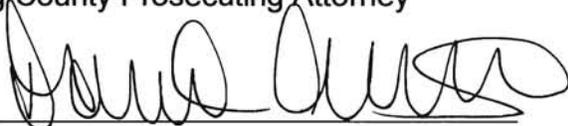
**D. CONCLUSION**

The Court should find that legal conclusions 2, 3, and 5 are properly designated as factual findings. Those findings and finding of fact 3 are supported by substantial evidence and should not be disturbed. The trial court's conclusion of law 1, that Garcia-Sanchez's statements were admissible, should be affirmed.

DATED this 19th day of June, 2012.

Respectfully submitted,

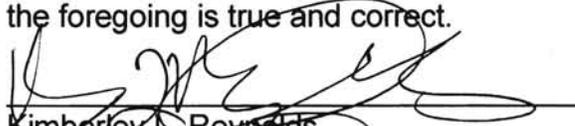
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Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to David B. Koch, the attorney for the appellant, at Nielsen, Broman & Koch, P.L.L.C., 1908 E. Madison Street, Seattle, WA 98122, containing a copy of the Brief of Respondent, in STATE V. EDITH GARCIA-SANCHEZ, Cause No. 67842-6-I, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

  
\_\_\_\_\_  
Kimberley L. Reynolds  
Done in Seattle, Washington

6/19/12  
Date