

A-24-0420, State of Nebraska (Appellee) v. Belina (Appellant)

Appeal from the District Court for Madison County, Judge Mark A. Johnson

Attorneys: Adam J. Sipple (Sipple Law) for Appellant Belina and Michael T. Hilgers and P. Christian Adamski (Nebraska Attorney General) for the Appellee State of Nebraska.

This case arose from allegations that Belina solicited three high school students, C.K., B.C., and T.S., to perform sexual acts in exchange for money or other things of value; subjected C.K. and B.C. to nonconsensual sexual contact; and attempted to subject another victim, W.H., to sexual contact. Belina employed the victims at a feedlot he owned and operated. Belina was charged with two counts of knowing and intentional child abuse, two counts of third degree sexual assault, one count of attempted third degree sexual assault, and three counts of solicitation of a minor. A jury trial was held and the jury convicted Belina of all of the charged offenses. Thereafter, the district court sentenced Belina to 30 months' imprisonment and 18 months of post-release supervision for each count of child abuse; 1 year of imprisonment for each count of third degree sexual assault; 3 months' imprisonment for attempted third-degree sexual assault; and 18 months' imprisonment and 12 months of post-release supervision for each count of solicitation of a minor with the sentence ordered to be served consecutively.

Belina alleges numerous assignments of error on appeal. He contends that the district court erred in (1) overruling objections to the testimony of an investigator and mental health professionals which testimony he claimed validated the truth of 2 of the victims' allegations; (2) failing to provide a limiting instruction after allowing, over objection, C.K.'s mother to testify to the details of the first time C.K.'s told her of the alleged abuse; (3) the instructing the jury regarding the offense of third degree sexual assault because the court failed to include separate definitions of "economic force" and "moral force" within the definition of "coercion"; (4) failing to instruct the jury that, for purposes of third degree sexual assault, persons over the age of 14 may consent to sexual contact; and (5) allowing the State to commit prosecutorial misconduct by allowing the prosecutor to make improper remarks during closing argument.

Belia also assigned as error that: (6) the evidence was insufficient to sustain his conviction of the third degree sexual assault of B.C. and his convictions of solicitation of a minor;

(7) that certain Nebraska statutes defining third degree assault (Neb. Rev. Stat. § 28-320 (Reissue 2016) and "without consent" (Neb. Rev. Stat. § 28-318(8)(a)(i) (Cum. Supp. 2024) are unconstitutionally vague as applied because they fail to define "coercion"; and (8) his trial counsel was ineffective in failing to object and/or move to strike a mental health therapist's testimony which he alleges bolstered B.C.'s credibility.