

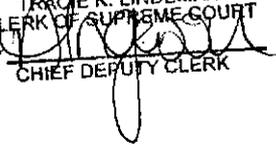
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANNY EUGENE MILLER, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69660

FILED

JUL 26 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction pursuant to a jury verdict of one count of abuse or neglect of a child with substantial bodily harm and one count of abuse or neglect of a child. Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.

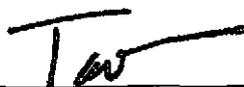
Appellant Danny Miller, Jr., argues the district court erred by allowing the prosecution to impeach the defense expert witness with questions that were outside the scope of the direct-examination. Miller claims he retained the defense expert to challenge the causation of the subdural hematoma alleged in alternate counts 1 and 2, and he did not ask the defense expert about the injuries giving rise to the allegations in count 3 during his direct-examination. Miller asserts the prosecutor's cross-examination unfairly focused on matters outside the scope of the direct-examination and impeached the central purpose of the defense expert's direct-examination testimony, which was to describe a legitimate dispute within the scientific community as to whether subdural hematomas can be caused by shaking alone or must involve some form of impact.

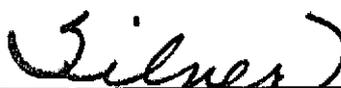
“We review a district court’s decision to admit or exclude evidence for abuse of discretion.” *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). “An abuse of discretion occurs if the district court’s decision is arbitrary or capricious or if it exceeds the bounds of law or reason.” *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005) (internal quotation marks omitted). Nevada’s rules of evidence limit cross-examinations “to the subject matter of the direct examination *and* matters affecting the credibility of the witness, unless the judge in exercise of discretion permits inquiry into addition matters as if on direct examination.” NRS 50.115(2) (emphasis added).

Here, the district court heard argument on Miller’s scope-of-direct-examination objection and overruled the objection after concluding, “if the doctor is going to render an opinion about the cause or lack of cause of the hematoma, he needs to consider the condition of the entire child, not just her chin and the injury to her brain. So it is proper impeachment.” We conclude the district court did not abuse its discretion in this regard. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Nancy L. Porter, District Judge  
Lockie & Macfarlan, Ltd.  
Attorney General/Carson City  
Elko County District Attorney  
Fourth District Court Clerk