



Administrative Office of the Courts

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Supreme Court rules post-conviction release pending appeal is mandatory for defendants who meet requirements of state law

SANTA FE – Defendants convicted of certain offenses are entitled to release pending appeal if they meet the requirements of a 1988 New Mexico law, the state Supreme Court ruled today.

The Court's unanimous opinion provided the legal reasoning for its decision last September to order the release of former Portales daycare owners Mary and Sandi Taylor while they appealed convictions of reckless child abuse. One girl died and another suffered serious injuries in 2017 after they were left in a hot car for more than two hours outside the home-based daycare the Taylors operated.

State law – [Section 31-11-1\(C\) of New Mexico Statutes Annotated](#) – specifically excludes defendants convicted of certain violent crimes, including murder, rape and kidnapping, from being eligible for release from jail or prison pending the outcome of their appeal.

Other defendants, including those convicted of child abuse, are entitled to release pending appeal if they meet the requirements established by law. The Court determined that the Taylors satisfied those requirements and last year ordered their release – subject to conditions imposed by the trial court judge.

The justices, in their written opinion, outlined the legal framework for courts in considering requests for release pending appeal and made clear that a court is required to grant release for defendants who prove they meet the law's requirements.

"Any suggestion that release pending appeal may not be mandatory where a defendant has met the statutory conditions is contrary to the plain language of Section 31-11-1(C) and its statutory predecessors," the Court held in an opinion written by Justice C. Shannon Bacon. "Since before statehood, New Mexico has entitled some post-conviction defendants to release pending appeal."

For a defendant to be released during an appeal, the Court explained, the law requires judges to find:

- (1) "that the defendant is not likely to flee or pose a danger to the safety of any other person or the community if released;
- (2) that the appeal is not for purpose of delay;
- (3) that the appeal raises a substantial question of law or fact; and
- (4) that if that substantial question is determined favorably to defendant on appeal, that decision is likely to result in reversal or an order for a new trial of all counts on which imprisonment has been imposed."

When the Supreme Court ordered the Taylors' release last year, their appeal was pending before the state Court of Appeals. Last week, the Court of Appeals upheld their child abuse convictions. A further appeal is possible. The Taylors can ask the state Supreme Court to review the decision of the Court of Appeals.

Mary Taylor was sentenced to 36 years in prison and her daughter, Sandi, was sentenced to 30 years imprisonment.

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To read the decision in *State v. Taylor*, No. S-1-SC-37893, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/496007/index.do>