



## Administrative Office of the Courts

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### **NM Supreme Court upholds teen's convictions for pickaxe killings**

SANTA FE – The state Supreme Court today upheld the first-degree felony murder convictions of a Santa Fe County man for killing three members of a northern New Mexico family when he was 16-years-old.

In a unanimous opinion, the state's highest court concluded that the constitutional rights of Nicholas Ortiz were not violated when he was sentenced as an adult without a special proceeding to determine whether he was amenable to treatment or rehabilitation as a juvenile. State law requires such a proceeding – known as an "amenability hearing" – for juvenile offenders other than those from ages 15 to 18 who are convicted of first-degree murder, a category considered "serious youth offenders."

"We conclude that the sentencing procedure applied to Defendant that did not afford him an amenability hearing does not violate the prohibition against cruel and unusual punishment," the Court wrote in an opinion by Justice David K. Thomson.

Ortiz was sentenced to 25 years in prison for convictions of three counts of first-degree felony murder and one count of conspiracy to commit aggravated burglary. According to trial testimony, Ortiz killed three people with a pickaxe when he went to their El Rancho home to rob them in 2011.

The Court rejected the defense's argument that Ortiz was denied equal protection under the law because of the different sentencing procedures for juvenile offenders. An amenability hearing is required for juveniles convicted of second-degree murder but not for offenders like the defendant who are convicted of first-degree felony murder. Felony murder is a killing that occurs in the commission of a felony or attempt to commit a felony. It is treated as first-degree murder and carries a longer sentence than second-degree murder.

The Court concluded that a "rational basis exists for the Legislature's decision to establish the separate categories that govern" juvenile offenders.

"Reviewing juvenile sentencing procedures for consistency with our society's evolving standards of decency is a laudable endeavor. However, as in this case, such matters of public policy are best addressed by the Legislature," the Court wrote.

The justices noted that although there is no requirement for an amenability hearing for juveniles convicted of first-degree murder, the law does provide judges with the discretion to sentence them to less than the mandatory term that would be imposed on an adult. Felony murder, for example, carries a sentence of life imprisonment for adults.

The Court held that the Legislature "specifically omitted serious youthful offenders who commit first-degree murder from the protections of the Delinquency Act," which governs juvenile justice proceedings and provides for amenability hearings for other categories of juvenile offenders.

"The Legislature therefore appears to have made this choice in order to balance its obligation to protect society from the most violent juvenile offenders with the recognition that most children should not face adult consequences for their actions due to their potential for rehabilitation and lesser culpability," the Court wrote.

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To read the decision in *State v. Ortiz*, No. S-1-SC-38151, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/500932/index.do>