



Administrative Office of the Courts

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Supreme Court orders new trial for Hobbs man convicted of battering a police officer

SANTA FE – The state Supreme Court today reversed a Hobbs man’s conviction for battery upon a peace officer and ordered a new trial.

In a unanimous opinion, the Court concluded that the district court in Lea County erred in admitting evidence in Albert Fernandez’s trial about a conviction that occurred a year earlier for the same felony offense — battery upon a peace officer.

Fernandez was arrested for drunken driving after a traffic stop in 2018. He became argumentative when administered a field sobriety test, and Hobbs police struggled to place him in a patrol vehicle.

At trial, two officers testified that Fernandez head-butted and kicked one of them. Fernandez denied that. In police lapel camera footage introduced as evidence, an officer tells Fernandez that he also would be charged with battery on a peace officer because “you just hit me with your head.” Fernandez’s head is not visible in the video footage because of the camera angle.

The prosecutor cast doubt on Fernandez’s credibility by asking whether he had a prior conviction for battery on a police officer. Fernandez acknowledged the conviction. The defense attorney objected, but was overruled.

The Supreme Court concluded that the district court abused its discretion by admitting the prior conviction as “impeachment evidence.” The justices reached their decision after analyzing legal factors to weigh the value of the evidence to prove Fernandez’s credibility against its prejudicial effect on jurors.

“Though Defendant’s conviction is probative of credibility, we conclude that the impeachment value of his conviction for battery upon a peace officer – a violent crime shedding little light on Defendant’s character for truthfulness – is minimal compared to its inflammatory impact,” the Court wrote in an opinion by Justice Julie J. Vargas.

The Court stated, “In a situation like this one, where the jury’s decision comes down to a credibility determination, this highly prejudicial piece of evidence that has little bearing on Defendant’s character for truthfulness could improperly tip the scale in favor of the State.”

The justices reasoned that “evidence of Defendant’s guilt turned on the jury’s evaluation of the credibility of Defendant and the officers since the lapel camera footage did not conclusively show whether Defendant battered” the police officer.

“The evidence likely had a significant impact on the jury because Defendant’s prior conviction was the last piece of evidence admitted at trial and the State highlighted it in its rebuttal, moments before the jury retired to deliberate,” the Court wrote. “Thus, the admission of the evidence is not harmless error because there is a reasonable probability that the district court’s failure to exclude the evidence contributed to Defendant’s conviction. Because the error is not harmless, it requires reversal.”

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To read the decision in *State v. Fernandez*, No. S-1-SC-39129, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521633/index.do>