



## Administrative Office of the Courts

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### **NM Supreme Court rejects new trial for defendant who sought to introduce evidence of genetic predisposition to violence**

SANTA FE – The state Supreme Court today upheld the second-degree murder conviction of Anthony Blas Yopez for the death of an elderly Santa Fe man in 2012.

In a unanimous decision, the state’s highest court concluded that a trial court judge properly excluded evidence about Yopez’s alleged genetic predisposition to impulsive violence. The justices rejected the defendant’s request for a new trial.

Yopez was charged with first-degree murder, but a jury convicted him in 2015 of second-degree murder for the death of 75-year-old George Ortiz, evidence tampering and theft of a motor vehicle. He was sentenced to 22½ years in prison.

Yopez killed Ortiz after a dispute between the victim and his step-granddaughter, who was Yopez’s girlfriend. The couple, who were living with Ortiz, burned his body.

Yopez sought to introduce genetic evidence at his trial to prove he was incapable of forming the intent to deliberately kill Ortiz, which is necessary for first-degree murder. After a pretrial hearing, the district court excluded expert witness testimony that Yopez possessed a particular gene that researchers have linked to violent behavior and a loss of impulse control.

The Supreme Court found that “the district court was within its discretion to exclude as lacking in scientific reliability an opinion that Yopez is predisposed to impulsive violent behavior.”

“We hold that evidence of mere genetic susceptibility to a given mental condition is not relevant on the issue of deliberate intent, at least in the absence of evidence that such susceptibility is so well understood and has such strong predictive value as to be clinically validated as an indicator of the mental condition,” the Court concluded in an opinion by retired Justice Judith K. Nakamura, who was Chief Justice when oral arguments were heard in the case.

In its decision, the Supreme Court reversed a determination by the state Court of Appeals that the genetic evidence should have been presented to jurors. The Court of Appeals concluded in 2018 that Yepez received a fair trial without the expert witness testimony and affirmed his second-degree murder conviction.

Yepez's girlfriend, Jeannie Sandoval, pleaded guilty in 2014 to second-degree murder under a plea agreement that provided for a maximum sentence of nine years in prison for her role in the killing.

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To read the decision in *State v. Yepez*, No. S-1-SC-37216, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/493377/index.do>