



Bennett J. Baur
Chief Public Defender

Friday, May 7, 2021

For immediate release

Justices affirm pretrial release ruling in public defender case targeted by Bernalillo DA

District judge's decision upheld for client obeying release restrictions

SANTA FE, NM — The state Supreme Court on Friday affirmed a 2nd Judicial District Court judge's ruling allowing a teenager accused of multiple home burglaries to await trial under strict conditions of release on house arrest.

The Second Judicial District Attorney's Office asked the court to reconsider the pretrial detention of Jesse Mascareno-Haidle, 19, after failing twice to convince two judges to hold him in jail pending his trial. The prosecutor's office claims that Mr. Mascareno-Haidle is a suspect in around 80 burglaries, but has only charged him with three alleged incidents.

"Every district court judge who has looked at this case and seen the evidence presented has agreed that Jesse can safely stay in the community while he awaits his trial," said attorney Noah Gelb. "Under the state and federal constitutions, Jesse is presumed innocent. He hasn't gone to trial yet. This case shows that judges can make decisions that protect the community and safeguard individual liberty."

A constitutional amendment adopted by voters in 2016 allows prosecutors to attempt to detain a defendant charged with a felony if prosecutors can prove the person is dangerous to the community or others and that no conditions of release can preserve safety. District judges in Albuquerque grant about 50% of the prosecutor requests for pretrial detention — and last year the DA's Office later declined to even prosecute 20% of those cases. Recidivism rates for people who have been released are very low, especially for violent crime. A UNM Institute of Social Research study found that more than 4 out of 5 defendants were not arrested for a crime while on pretrial release and 96% percent were not accused of a violent crime. Of all 6,392 defendants released during the time of this study, only 12 were arrested for a first-degree felony during their release period.

While judges cannot be expected to predict the future 100% of the time, the system we have is intentionally flexible so that we balance public safety risks against the serious harm done by incarcerating innocent or non-dangerous New Mexicans based on unproved accusations.

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Joey D. Moya

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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

May 7, 2021

NO. S-1-SC-38743

STATE OF NEW MEXICO,

Plaintiff-Petitioner,

v.

JESSE MASCARENO-HAIDLE,

Defendant-Respondent.

ORDER

WHEREAS, this matter came on for consideration by the Court upon expedited petition for writ of certiorari filed under Rules 12-204 and 12-502 NMRA and response thereto, whereupon this Court granted the petition, issued a writ of certiorari, ordered briefing, and heard the oral arguments of the parties on May 7, 2021, and the Court having considered the foregoing and being sufficiently advised, Chief Justice Michael E. Vigil, Justice Barbara J. Vigil, Justice C. Shannon Bacon, Justice David K. Thomson, and Justice Julie J. Vargas concurring;

NOW, THEREFORE, IT IS ORDERED that the Order Affirming Denial of Pretrial Detention, filed by the Court of Appeals on March 16, 2021, in cause numbered A-1-CA-39561 is AFFIRMED;

IT IS FURTHER ORDERED that this order shall constitute this Court's mandate under Rule 12-204(E)(4) NMRA for purposes of remanding this matter to

1 the Court of Appeals for further proceedings, if any, consistent and in conformity
2 with the judgment of this Court; and

3 IT IS FURTHER ORDERED that an opinion shall issue at a later date to
4 more fully explain this Court's ruling in this matter.

5 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 7th day of May, 2021.

Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico

I CERTIFY AND ATTEST:

A true copy was served on all parties
or their counsel of record on date filed.

Joey D. Moya

Chief Clerk of the Supreme Court
of the State of New Mexico