



Administrative Office of the Courts

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Supreme Court finds double jeopardy violation in multiple convictions for a business break-in

SANTA FE – A San Juan County man’s convictions for breaking and entering and burglary of a Farmington business violated the constitutional protection against double jeopardy, the state Supreme Court ruled today.

In a unanimous opinion, the Court ordered the district court in San Juan County to vacate one of Franklin Begaye’s convictions and resentence him. He was originally sentenced to 16 years in prison for the 2017 break-in. His sentence was enhanced because he had prior felony convictions.

“We conclude that Defendant’s right to be free from double jeopardy was violated when he was convicted for both breaking and entering and non-residential burglary because the underlying conduct was unitary and, under the State’s theory, the burglary offense subsumed the breaking and entering offense,” the Court wrote in an opinion by Justice Julie J. Vargas.

The U.S. and New Mexico Constitutions protect people from multiple punishments for the same offense.

The Court noted that the State “concedes that Defendant’s conduct in this case was unitary” and the justices agreed that both of Begaye’s convictions “arose out of the unitary conduct” of his entering a sign business by breaking a front window.

In its opinion, the Court clarified the legal analysis that trial courts should conduct to determine whether a double jeopardy violation occurred in cases in which a single action resulted in multiple charges under different criminal statutes.

The justices found in Begaye’s case that the statutes did not explicitly authorize multiple punishments for non-residential burglary and breaking and entering. The Court also concluded that prosecutors relied on the same evidence to support both charges.

For a jury to convict Begaye of burglary under the prosecution's theory of the crime, the Court wrote, "it necessarily had to have found that Defendant entered Ram Signs without authorization by breaking the front window, and that he entered with the intent to commit a theft on February 28, 2017. For breaking and entering, the jury had to have found that Defendant entered Ram Signs without permission by breaking the front window on February 28, 2017."

The Court reversed a decision by the state Court of Appeals that found no double jeopardy violation in Begaye's convictions for breaking and entering and burglary. Begaye also was convicted of possession of burglary tools – gloves and a screwdriver – but the Court of Appeals vacated the conviction for insufficient evidence and that portion of its decision was not appealed to the Supreme Court.

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To read the decision in *State v. Begaye*, No. S-1-SC-38797, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521548/index.do>