



Administrative Office of the Courts

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State Supreme Court vacates felony murder convictions but affirms willful and deliberate murder convictions in a triple homicide case

SANTA FE – The state Supreme Court has upheld the first-degree willful and deliberate murder convictions of a northern New Mexico man for the 2018 killings of three people in a home near the community of Dixon in Rio Arriba County.

However, the Court vacated three felony murder convictions that a jury returned against Roger Gage for the same three deaths. The justices concluded that Gage’s convictions of three counts each of first-degree willful and deliberate murder and three counts of felony murder violated constitutional protections against double jeopardy.

“While only one capital sentence was imposed for each murder, under the judgment and sentence, Defendant stands convicted of six first-degree murder convictions for three killings,” the Court wrote in a unanimous opinion by Justice Michael E. Vigil.

The Court noted that a prior Supreme Court decision determined it was a double jeopardy violation to impose more than one murder conviction for one death. Gage raised the double jeopardy issue on appeal and state prosecutors agreed the felony murder convictions should be vacated. The Court was not bound to follow their agreement on the legal matter, however.

New Mexico law provides for different types of murder in the first degree, all of which are punishable by life in prison. Felony murder is a killing that occurs in the commission of a felony or attempt to commit a felony.

Gage was sentenced to three terms of life imprisonment for the murder convictions and 21 years for convictions of aggravated burglary, conspiracy to commit murder and tampering with evidence. Those convictions also were affirmed by the Court in today’s opinion. All of the sentences are to run consecutively.

A video surveillance system recorded the shooting deaths of a woman and two men after Gage and his brother, John Powell, entered a house in Rio Arriba County where drugs were sold. Powell also was convicted of three counts of first-degree murder along with other charges.

The Court rejected arguments by Gage that he should receive a new trial because of actions by the trial judge. Gage contended that District Court Judge Jason Lidyard had erred in denying a motion to suppress incriminating statements he made to law enforcement after his arrest. He also argued that the judge had wrongly refused to recuse himself from the murder case after Gage's attorney was notified that he would serve as a witness in a disciplinary proceeding involving matters that occurred previously when the judge was a prosecutor. The justices concluded that Gage failed to provide evidence that he was "unfairly affected by Judge Lidyard's supervision" of the murder case.

The Court also rejected Gage's argument that receiving two life sentences for acting as an accomplice to murder was unconstitutional cruel and unusual punishment. The surveillance video showed that Gage shot one of the victims and his brother shot the other two victims.

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To read the decision in *State v. Gage*, No. S-1-SC-39142, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521792/index.do>