

**STATE V. BECKNER**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellee,  
v.  
DAVID A. BECKNER,  
Defendant-Appellant.**

NO. 34,201

COURT OF APPEALS OF NEW MEXICO

December 15, 2016

APPEAL FROM THE DISTRICT COURT OF HIDALGO COUNTY, J. C. Robinson,  
District Judge

**COUNSEL**

Hector H. Balderas, Attorney General, Maha Khoury, Assistant Attorney General, Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, David Henderson, Appellate Defender, B. Douglas Wood III, Assistant Appellate Defender, Santa Fe, NM, for Appellant

**JUDGES**

JAMES J. WECHSLER, Judge. WE CONCUR: LINDA M. VANZI, Judge, J. MILES HANISEE, Judge

**AUTHOR:** JAMES J. WECHSLER

**MEMORANDUM OPINION**

**WECHSLER, Judge.**

{1} Defendant David Beckner appeals from the district court's denial of presentence confinement credit. The State concedes that Defendant is entitled to presentence

confinement credit. We agree that the district court erroneously denied Defendant presentence confinement credit, and, accordingly, we reverse.

{2} The parties do not dispute the relevant facts and procedural history. Defendant was arrested in the present case in Hidalgo County, New Mexico, and bond was set at his felony first appearance on April 29, 2014. At the time of his arrest, Defendant was on probation for a case arising out of Grant County, New Mexico. Defendant's arrest in the present case resulted in a petition for revocation of Defendant's probation and the issuance of a no-bond bench warrant in Grant County. The parties agree that Defendant never posted bond in the present case. Defendant pleaded guilty and was sentenced in the present case on August 28, 2014. The district court did not award Defendant any presentence confinement credit from the date of his arrest to the date of his sentencing in the present case.

{3} Our law requires that "[a] person held in official confinement on suspicion or charges of the commission of a felony shall, upon conviction of that or a lesser included offense, be given credit for the period spent in presentence confinement against any sentence finally imposed for that offense." NMSA 1978, § 31-20-12 (1977). This Court addressed a similar situation in *State v. Ramzy*, in which the defendant, while free on an appeal bond after being sentenced for aggravated burglary and aggravated assault (Case One), was arrested and incarcerated on a second charge (Case Two). 1982-NMCA-113, ¶¶ 3-5, 98 N.M. 436, 649 P.2d 504. The appeal bond in Case One was revoked because of the charges in Case Two. *Id.* ¶ 5. This Court held that the defendant was entitled to presentence confinement credit from the day his appeal bond was revoked until the time the defendant was sentenced in Case Two, because the confinement was actually related to the particular charges in Case Two. *Id.* ¶ 11. We determined that the confinement need not be the exclusive result of the charges in the second case in order for a defendant to be credited for presentence time served. *Id.* In *State v. Orona*, this Court expounded the *Ramzy* holding and set forth three factors supporting an award of presentence confinement credit: (1) the defendant was not originally confined in either case, (2) the second case triggered the confinement in the first case, and (3) the defendant was being held on a bond in the second case. *Orona*, 1982-NMCA-143, ¶ 5, 98 N.M. 668, 651 P.2d 1312.

{4} In the present case, Defendant was on probation for the Grant County case and not confined at the time he was arrested in the present case in Hidalgo County. Defendant's arrest in the present case triggered the no-bond bench warrant in the Grant County probation case. Defendant never posted bond in the present case, and, like the defendant in *Ramzy*, Defendant remained in custody until he was sentenced. Based on these facts, we conclude that Defendant's confinement in the present case meets the *Orona* factors supporting an award of presentence confinement credit. Therefore, although Defendant's confinement was not the exclusive result of the charges in the present case, it was related to those charges.

## CONCLUSION

**{5}** Defendant was erroneously denied presentence confinement credit. We reverse the district court's denial of presentence confinement.

**{6}** IT IS SO ORDERED.

**JAMES J. WECHSLER, Judge**

**WE CONCUR:**

**LINDA M. VANZI, Judge**

**J. MILES HANISEE, Judge**