

STATE V. FRANCISCO M.

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
FRANCISCO M.,
Child-Appellant.

NO. 29,781

COURT OF APPEALS OF NEW MEXICO
February 2, 2010

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Sandra A. Price,
District Judge

COUNSEL

Gary K. King, Attorney General, Andrew S. Montgomery, Assistant Attorney General,
Santa Fe, NM, for Appellee

Hugh W. Dangler, Chief Public Defender, J.K. Theodosia Johnson, Assistant Appellate
Defender, Santa Fe, NM, for Appellant

JUDGES

JAMES J. WECHSLER, Judge. WE CONCUR: JONATHAN B. SUTIN, Judge,
MICHAEL E. VIGIL, Judge

AUTHOR: JAMES J. WECHSLER

MEMORANDUM OPINION

WECHSLER, Judge.

Child appeals the adjudication of delinquency. We issued two calendar notices in this case. In our second calendar notice, we proposed to reverse and remand for retrial. We proposed to reverse the adjudication of delinquency based on our Supreme Court's

decision in *State v. Nick R.*, 2009-NMSC-050, 147 N.M. 182, 218 P.3d 868. We also proposed to hold that reasonable minds could infer that Child had the intent necessary to support a conviction for carrying a deadly weapon on school grounds, and therefore retrial was not barred. The State responded to our second calendar notice, agreeing that the adjudication of delinquency should be reversed and agreeing that retrial is not barred. Child filed no response to our second calendar notice. We therefore reverse for the reasons discussed in our second calendar notice, and we remand to the district court for retrial.

IT IS SO ORDERED.

JAMES J. WECHSLER, Judge

WE CONCUR:

JONATHAN B. SUTIN, Judge

MICHAEL E. VIGIL, Judge