

<b>STATE V. FROLICK</b>
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**STATE OF NEW MEXICO,**  
**Plaintiff-Appellee,**  
**v.**  
**EARNEST FROLICK,**  
**Defendant-Appellant.**

No. 34,877

COURT OF APPEALS OF NEW MEXICO

February 16, 2016

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, John A. Dean Jr.,  
District Judge

**COUNSEL**

Hector H. Balderas, Attorney General, Maris Veidemanis, Assistant Attorney General,  
Santa Fe, NM, for Appellee

Jorge A. Alvarado, Chief Public Defender, Stephen Taylor, Assistant Public Defender,  
Santa Fe, NM, for Appellant

**JUDGES**

JONATHAN B. SUTIN, Judge. WE CONCUR: JAMES J. WECHSLER, Judge, J. MILES  
HANISEE, Judge

**AUTHOR:** JONATHAN B. SUTIN

**MEMORANDUM OPINION**

**SUTIN, Judge.**

{1} Defendant Earnest Frolick appeals from his conviction for one count of  
distribution of a controlled substance contrary to NMSA 1978, Section 30-31-22(A)(2)(a)

(2011). On appeal, Defendant contends that the district court erred in denying his request that the jury be instructed on objective entrapment. See UJI 14-5161 NMRA. This Court issued a calendar notice proposing to agree with Defendant and proposing to reverse and remand for a new trial. [CN 6] The State has filed a response to this Court's notice of proposed disposition informing this Court that, after due consideration, it will not be filing a memorandum in opposition to our notice. Accordingly, for the reasons stated in this Court's notice of proposed disposition, we reverse Defendant's conviction and remand to the district court for a new trial.

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

**JONATHAN B. SUTIN, Judge**

**WE CONCUR:**

**JAMES J. WECHSLER, Judge**

**J. MILES HANISEE, Judge**