

**STATE V. GALLEGOS**

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**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
v.  
**RAY DANIEL GALLEGOS,**  
Defendant-Appellant.

No. 35,412

COURT OF APPEALS OF NEW MEXICO

January 30, 2017

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Stan Whitaker,  
District Judge

**COUNSEL**

Hector H. Balderas, Attorney General, Laura E. Horton, Assistant Attorney General,  
Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, Will O'Connell, Assistant Public Defender,  
Santa Fe, NM, for Appellant

**JUDGES**

MICHAEL E. VIGIL, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge, JAMES J.  
WECHSLER, Judge

**AUTHOR:** MICHAEL E. VIGIL

**MEMORANDUM OPINION**

**VIGIL, Judge.**

{1} Defendant appealed from a judgment and sentence. We issued a second calendar notice continuing to propose to affirm as to the issues initially raised in the

docketing statement, but granting Defendant's motion to amend and proposing to reverse as to the newly-raised issue, by which Defendant advanced a double jeopardy challenge.

**{2}** Defendant has filed a responsive memorandum in which no new facts, arguments, or authorities are presented. The State has filed a responsive document indicating that it does not oppose.

**{3}** Accordingly, for the reasons previously stated in the notices of proposed summary disposition, we reject the various issues and arguments initially advanced in the docketing statement. However, with respect to the double jeopardy challenge, we reverse and remand to the district court with instruction to vacate one of the convictions and re-sentence Defendant accordingly.

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

**MICHAEL E. VIGIL, Judge**

**WE CONCUR:**

**LINDA M. VANZI, Chief Judge**

**JAMES J. WECHSLER, Judge**