

STATE V. GONZALES

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**STATE OF NEW MEXICO,
Plaintiff-Appellant,
v.
SIMON PETER GONZALES,
Defendant-Appellee.**

No. 34,954

COURT OF APPEALS OF NEW MEXICO

May 17, 2016

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Cristina T.
Jaramillo, District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, Steven Johnston, Assistant Attorney General, Albuquerque, NM, for Appellant

Bennett J. Baur, Chief Public Defender, Sergio Viscoli, Appellate Defender, David Henderson, Assistant Appellate Defender, Santa Fe, NM, for Appellee

JUDGES

J. MILES HANISEE, Judge. WE CONCUR: TIMOTHY L. GARCIA, Judge, M. MONICA ZAMORA, Judge

AUTHOR: J. MILES HANISEE

MEMORANDUM OPINION

HANISEE Judge.

{1} The State appeals from the district court's order dismissing the case without prejudice. This Court issued a second notice of proposed disposition, proposing

summary reversal and remand. Defendant filed a memorandum in partial opposition, in which Defendant “concur[s] with the Court’s proposed ruling” and only “seek[s] clarification [on] the proposed remedy.” [MIO 1] Accordingly, for the reasons set forth in our notice of proposed disposition, we reverse the district court’s order dismissing the case and remand with instructions to the district court to afford the State a fair opportunity to respond to Defendant’s motion to dismiss before ruling on the motion.

{2} IT IS SO ORDERED.

J. MILES HANISEE, Judge

WE CONCUR:

TIMOTHY L. GARCIA, Judge

M. MONICA ZAMORA, Judge