

STATE V. JOHNSON

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
TERRANCE JOHNSON,
Defendant-Appellant.

No. 33,877

COURT OF APPEALS OF NEW MEXICO

October 23, 2014

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Michael
Martinez, District Judge

COUNSEL

Gary K. King, Attorney General, Nicole Beder, Assistant Attorney General, Santa Fe, NM, for Appellee

Law Offices of the Public Defender, Jorge A. Alvarado, Chief Public Defender, Santa Fe, NM, Jennifer K. Trujillo, Assistant Appellate Defender, Albuquerque, NM, for Appellant

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge, LINDA M. VANZI, Judge

AUTHOR: JONATHAN B. SUTIN,

MEMORANDUM OPINION

SUTIN, Judge.

{1} Defendant appeals from the district court's order revoking his probation and reinstating it for three more years. Unpersuaded that the State proved Defendant's fugitive status within his probation period and that he was unentitled to credit for time served on probation, we issued a notice of proposed summary disposition, proposing to reverse the district court's order. In the absence of a such a showing, it appeared to us that the district court should have given Defendant credit for time served on probation and that the district court was without jurisdiction to revoke Defendant's probation after his probationary term had ended. Accordingly, we proposed to reverse and remand this case to the district court to vacate its order revoking and reinstating Defendant's probation and to issue Defendant a certificate of satisfactory completion of probation. The State has filed a response to our notice, indicating that it does not oppose our proposal to summarily reverse on the grounds stated in the notice.

{2} Thus, for the reasons stated in the notice, we hold that the State did not establish that Defendant was a fugitive from justice and that the district court was without jurisdiction to revoke and reinstate Defendant's probation. Accordingly, we reverse and remand this case to the district court to vacate its order revoking and reinstating Defendant's probation and to issue Defendant a certificate of satisfactory completion of probation.

{3} IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

LINDA M. VANZI, Judge