

**STATE V. MARTINEZ**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellant,  
v.  
WILLIAM DANIEL MARTINEZ,  
Defendant-Appellee.**

No. A-1-CA-35111

COURT OF APPEALS OF NEW MEXICO

May 14, 2018

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Karen L.  
Townsend, District Judge

**COUNSEL**

Hector H. Balderas, Attorney General, Santa Fe, NM, John J. Woykovsky, Assistant Attorney General, Albuquerque, NM, for Appellant

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**JUDGES**

STEPHEN G. FRENCH, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge, HENRY M. BOHNHOFF, Judge

**AUTHOR:** STEPHEN G. FRENCH

**MEMORANDUM OPINION**

**FRENCH, Judge.**

{1} The State of New Mexico (Plaintiff) appeals the district court's orders granting Defendant William Daniel Martinez's motion to dismiss and dismissal of charge without

prejudice. Defendant was charged with a single count of aggravated fleeing a law enforcement officer pursuant to NMSA 1978, Section 30-22-1.1 (2003). The sole issue before the district court was whether the deputy's vehicle was an "appropriately marked law enforcement vehicle" pursuant to Section 30-22-1.1(A). The district court found (1) that the law enforcement vehicle "was equipped with red and blue LED lights located within the grill area that were visible through the grill even when not activated[,]" (2) that the vehicle "had a siren, the speakers of which were also located within the grill area[,]" (3) "[t]he vehicle had an antenna that is not common to civilian vehicles[,]" and (4) the deputy "activated his red and blue flashing lights and his siren" resulting in Defendant eluding the deputy. Importantly, the district court also found that the law enforcement vehicle "bore no insignias, stripes, decals, labels, seals, symbols or other pictorial signs or lettering indicating its identity as a law enforcement vehicle." In concluding that the deputy's vehicle was not "appropriately marked" pursuant to Section 30-22-1.1(A), the district court ruled that to be marked, "requires at a minimum some type of readily observable insignia or lettering that conveys the identity or ownership of the vehicle."

{2} This case raises the same issue, appropriately marked law enforcement vehicle, pursuant to Section 30-22-1.1(A), as the one this Court recently decided in *State v. Montano*, \_\_\_-NMCA-\_\_\_, ¶¶ 1, 35-47, \_\_\_P.3d\_\_\_(No. A-1-CA-35275, March 29, 2018). For the same reasons as those discussed in *Montano*, we reverse.

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

**STEPHEN G. FRENCH, Judge**

**WE CONCUR:**

**LINDA M. VANZI, Chief Judge**

**HENRY M. BOHNHOFF, Judge**