

STATE V. PAUL

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**STATE OF NEW MEXICO,
Plaintiff-Appellant,
v.
DARRYL PAUL,
Defendant-Appellee.**

No. 33,319

COURT OF APPEALS OF NEW MEXICO

October 29, 2015

APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY, Robert A. Aragon,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, M. Anne Kelly, Assistant Attorney General, Albuquerque, NM, for Appellant

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JUDGES

CYNTHIA A. FRY, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge, LINDA M. VANZI, Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

{1} This case is before us on remand from our Supreme Court. We previously filed an opinion in this case affirming the district court's dismissal of Defendant's vehicular homicide charge for lack of jurisdiction. *State v. Paul*, No. 33,319, mem. op. (N.M. Ct.

App. Mar. 26, 2015). The Supreme Court granted the State's petition for writ of certiorari and remanded the case for reconsideration of our decision in light of *State v. Steven B. (Steven B. II)*, 2015-NMSC-020, 352 P.3d 1181.

{2} Because this is a memorandum opinion and because we summarized the facts in our prior opinion, we do not reiterate the factual summary here. It suffices to say that we affirmed the district court's dismissal of the charges against Defendant by relying on our own precedent, *State v. Steven B. (Steven B. I)*, 2013-NMCA-078, 306 P.3d 509, and *State v. Dick*, 1999-NMCA-062, 127 N.M. 382, 981 P.2d 796. In those cases, we held that the area where the accident in the present case occurred—Parcel Three of the former Fort Wingate Military Reservation—was a dependent Indian community over which the State did not have jurisdiction. See *Steven B. I*, 2013-NMCA-078, ¶¶ 15-16; *Dick*, 1999-NMCA-062, ¶¶ 3-4. Our Supreme Court reversed the holding in *Steven B. I* and overruled the holding in *Dick* in *Steven B. II*, 2015-NMSC-020, ¶¶ 3, 36. The Court held that Parcel Three is not a dependent Indian community. *Steven B. II*, 2015-NMSC-020, ¶ 50.

{3} Because we are bound by Supreme Court precedent, see *Alexander v. Delgado*, 1973-NMSC-030, ¶ 9, 84 N.M. 717, 507 P.2d 778, we now conclude that the district court erred in dismissing the charge against Defendant. We reverse the district court's judgment and remand for proceedings consistent with this Opinion.

{4} IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

LINDA M. VANZI, Judge