

STATE V. ROMERO

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
FELIX ROMERO,
Defendant-Appellant.**

NO. A-1-CA-35526

COURT OF APPEALS OF NEW MEXICO

May 31, 2018

APPEAL FROM THE DISTRICT COURT OF SANDOVAL COUNTY, George P.
Eichwald, District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, Laurie Blevins, Assistant Attorney General, Albuquerque, NM, for Appellee

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

JUDGES

LINDA M. VANZI, Chief Judge. WE CONCUR: MICHAEL E. VIGIL, Judge, JULIE J. VARGAS, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Chief Judge.

{1} Defendant appeals the judgment and sentence convicting him of multiple counts of possession of child pornography, in violation of NMSA 1978, Section 30-6A-3(A)

(2007, amended 2016). Defendant contends that under the dictates of *State v. Olsson*, 2014-NMSC-012, 324 P.3d 1230, he should only have been convicted of one count. The State agrees with Defendant's argument. While we are not bound by the State's concession, see *State v. Guerra*, 2012-NMSC-027, ¶ 9, 284 P.3d 1076, we have examined the facts and circumstances of this case and find that Defendant's argument and the State's concession are correct statements of the law as applied to this case. We therefore hold that Defendant should have been convicted of only one count of possession of child pornography. We reverse and remand for vacation of all but one of Defendant's convictions and for further proceedings as may be appropriate.

{2} IT IS SO ORDERED.

LINDA M. VANZI, Chief Judge

WE CONCUR:

MICHAEL E. VIGIL, Judge

JULIE J. VARGAS, Judge