

STATE V. VELAZQUEZ

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
CARLOS VELAZQUEZ,
Defendant-Appellant.

No. 35,747

COURT OF APPEALS OF NEW MEXICO

April 4, 2017

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Fernando R.
Macias, District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, Elizabeth Ashton, Assistant Attorney General, Albuquerque, NM, for Appellee

Bennett J. Baur, Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

LINDA M. VANZI, Chief Judge. WE CONCUR: TIMOTHY L. GARCIA, Judge, JULIE J. VARGAS, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Chief Judge.

{1} Carlos Velazquez (Defendant) appeals from his conviction for criminal damage to the property of a household member under \$1000. On appeal, Defendant argues that

the district court erred in denying his motion for directed verdict. This Court issued a notice of proposed disposition, proposing to affirm Defendant's conviction. Defendant filed a memorandum in opposition in response to this Court's proposed affirmance. This Court then issued a second notice of proposed disposition, proposing to reverse. Specifically, we noted that it appeared Defendant was charged with criminal damage to the property of a household member, pursuant to NMSA 1978, Section 30-3-18 (2009), but no evidence establishing that the property belonged to a household member was introduced and no instruction requiring the jury to determine whether the property belonged to a household member was given. In response the State has filed a notice of its intent not to file a memorandum in opposition to our second notice of proposed disposition.

{2} Accordingly, we rely on the reasoning contained in our second notice of proposed disposition and reverse Defendant's conviction.

{3} IT IS SO ORDERED.

LINDA M. VANZI, Chief Judge

WE CONCUR:

TIMOTHY L. GARCIA, Judge

JULIE J. VARGAS, Judge