

STATE V. VILLEGAS

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 Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions.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.
CONRAD VILLEGAS, JR.,
Defendant-Appellant,

No. 34,149

COURT OF APPEALS OF NEW MEXICO

February 24, 2015

APPEAL FROM THE DISTRICT COURT OF LUNA COUNTY, Daniel Viramontes,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Margaret McLean, Assistant Attorney General,
Santa Fe, NM, for Appellee

Jorge A. Alvarado, Chief Public Defender, Will O'Connell, Assistant Appellate Defender,
Santa Fe, NM, for Appellant

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: MICHAEL E. VIGIL, Chief Judge,
RODERICK T. KENNEDY, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

{1} Defendant contends that he received an illegal sentence when, following a probation violation, the trial court did not credit him with the time he served while

incarcerated on his original sentence. [DS 5] Our notice agreed with Defendant and proposed to reverse and remand for resentencing.

{2} The State has responded to our notice, indicating that the State does not oppose our proposed disposition. [MIO 2] Additionally, we note that the State suggests that Defendant is entitled to 365 days of credit, as opposed to 364 days, as provided in our notice. [MIO 2; DS 5; CN 2]

{3} Accordingly, for the reasons detailed in our notice and discussed above, we reverse and remand to the district court for resentencing.

{4} IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

MICHAEL E. VIGIL, Chief Judge

RODERICK T. KENNEDY, Judge