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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40367

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

DANIELLE KELSO,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY
Conrad F. Perea, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM
Michael J. Thomas, Assistant Attorney General
Albuquerque, NM

for Appellee

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

for Appellant

MEMORANDUM OPINION

ATTREP, Chief Judge.

{1} Defendant appeals her convictions for attempted first degree murder, false imprisonment, battery on a household member, and assault on a household member. [8-10-22 CN 1] In this Court's first notice of proposed disposition, we proposed to summarily affirm Defendant's convictions. [8-10-22 CN 1, 9] Defendant responded by filing a memorandum in opposition and a motion to amend the docketing statement,

seeking to add the issue of whether Defendant's convictions for assault on a household member and battery on a household member violate Defendant's right to be free from double jeopardy. [MIO 7] This Court then filed a second notice of proposed disposition, proposing to: (1) agree with Defendant that her double jeopardy rights were violated in this case, and remand to the district court with instructions to vacate Defendant's conviction for assault on a household member [11-16-22 CN 1-6]; and (2) affirm on all other issues raised. [11-16-22 CN 6-11] The State responded to this Court's second notice of proposed disposition, stating that it does not oppose our proposed resolution in this case. [State Rsp. 1] Defendant also responded, indicating that she would not be filing a memorandum in response to our second notice of proposed disposition. [Def Rsp. 1] Accordingly, for the reasons stated in our second notice of proposed disposition and herein, we reverse and remand for proceedings to vacate Defendant's conviction for assault on a household member and affirm Defendant's remaining convictions.

{2} IT IS SO ORDERED.

JENNIFER L. ATTREP, Chief Judge

WE CONCUR:

J. MILES HANISEE, Judge

MEGAN P. DUFFY, Judge