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**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**Filing Date: August 26, 2024**

**No. S-1-SC-40172**

**BRYCE FRANKLIN,**

Petitioner-Appellee,

v.

**STATE OF NEW MEXICO, and  
RONALD MARTINEZ, Warden,**

Respondents-Appellants.

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

Raúl Torrez, Attorney General  
Walter Hart, Assistant Attorney General  
Albuquerque, NM

for Appellants

Lalita Moskowitz  
American Civil Liberties Union of New Mexico  
Albuquerque, NM

for Appellee

**DISPOSITIONAL ORDER OF REMAND**

**VIGIL, Justice.**

{1} WHEREAS, in its September 21, 2023, order, the district court granted a writ of habeas corpus without an evidentiary hearing after finding that the prisoner policy at the Southern New Mexico Correctional Facility failed to satisfy any of the *Turner v. Safley*, 482 U.S. 78 (1987) reasonableness factors, resulting in a deprivation of Appellee's First Amendment rights; and

{2} WHEREAS, on February 26, 2024, the Court granted the alternative relief sought in the emergency petition for writ of superintending control, staying the district court's September 21, 2023, order and enforcement of the writ of habeas corpus, pending the resolution of this appeal; and

{3} WHEREAS, on February 8, 2024, the State filed its brief in chief, arguing that the district court erred by not holding an evidentiary hearing before issuing its September 21, 2023, order; and

{4} WHEREAS, on April 5, 2024, the Appellee filed a Non-Opposition to Remand, stating that he is unopposed to this Court remanding this matter to the district court for an evidentiary hearing; and

{5} WHEREAS the Court concludes that the State's request for an evidentiary hearing to enable the district court to make its findings of fact determinations is unopposed and warranted; and

{6} WHEREAS, the Court, therefore, exercises its discretion under Rule 12-405(B) NMRA to dispose of this matter by non-precedential order; and

{7} WHEREAS, the Court, having considered the foregoing and being sufficiently advised;

{8} NOW, THEREFORE, IT IS ORDERED that the Court's February 26, 2024, order staying the district court's September 21, 2023, order and the enforcement of the district court's writ of habeas corpus in cause number D-307-CV-2022-01119 is WITHDRAWN; and

{9} IT IS FURTHER ORDERED that this matter is remanded to the district court for an evidentiary hearing and such further proceedings as may be warranted.

**{10} IT IS SO ORDERED.**

**MICHAEL E. VIGIL, Justice**

**WE CONCUR:**

**DAVID K. THOMSON, Chief Justice**

**C. SHANNON BACON, Justice**

**JULIE J. VARGAS, Justice**

**BRIANA H. ZAMORA, Justice**