



## Administrative Office of the Courts

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Supreme Court orders new murder trial for Valencia County man convicted two decades ago

SANTA FE – The state Supreme Court today ordered a new trial for a Valencia County man convicted of murder as a teenager for a shooting during a Thanksgiving Day altercation in 2001.

In a unanimous opinion, the Court vacated Mario Rudolfo’s first-degree murder conviction and ordered the case back to the district court in Valencia County for a new trial on the murder charge. He was serving a sentence of life imprisonment for the murder – requiring a minimum of 30 years before becoming eligible for parole – and 9½ years for other convictions. At the time of the fatal shooting, Rudolfo was 16 years old. He is now 38 years old.

The justices concluded that Rudolfo’s murder conviction must be set aside because the legal foundation for it was unclear from the jury’s verdict and that one possible basis for the conviction was no longer valid.

A jury returned a general verdict against Rudolfo in 2004 that did not indicate whether his first-degree murder conviction was willful and deliberate murder or based on the theory of felony murder – a killing that occurred during the commission of a felony or attempt to commit a felony.

The justices concluded that a previous ruling by the Court established a “new substantive rule” that applied retroactively to Rudolfo’s case. The prior opinion – in a case known as *State v. Marquez* – was issued 12 years after Rudolfo’s trial and narrowed the crimes that can support a charge of felony murder. The state’s highest court held in the 2016 case that the crime of shooting at or from a motor vehicle could not serve as the underlying felony for purposes of a felony murder charge.

“In the present case, by applying *Marquez* retroactively, we have invalidated the theory of felony murder predicated on shooting at or from a motor vehicle,” the Court wrote in an opinion by Justice Michael E. Vigil. “Because the parties provided the jury with a general verdict, we cannot conclusively determine whether the jury relied on an invalid theory of felony murder when

convicting Petitioner of first-degree murder. In other words, it is impossible for us to determine which theory of first-degree murder the jury selected.”

Rudolfo and his brother, Jacob Gonzales, were involved in an altercation with family members of Gonzales’ girlfriend at a mobile home where the brothers lived with the woman. After a fight inside the mobile home, Rudolfo and his brother ran outside and fired shots as the family members left in a van. One occupant died from a gunshot and two others were wounded.

Rudolfo was convicted of first-degree murder, attempted murder, shooting at or from a motor vehicle and tampering with evidence. In an appeal after the trial, the state Supreme Court in 2008 vacated the conviction of shooting at or from a motor vehicle on double jeopardy grounds but affirmed the other convictions.

While in prison, Rudolfo brought several post-conviction challenges in district court. Two years after the Court’s ruling in the *Marquez* case, Rudolfo filed a petition for writ of habeas corpus arguing that the new legal rule about felony murder should apply in his case. He contended that his first-degree murder conviction should be converted to second-degree murder, based on a presumption that the jury convicted him under a felony murder theory.

The district court denied his petition, concluding that the rule established in the 2016 opinion was procedural in nature and did not apply retroactively. The Supreme Court reversed the district court’s decision, but ordered a new trial on the first-degree murder charge. The justices left in place Rudolfo’s other convictions.

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To read the decision in *Rudolfo v. Steward*, No. S-1-SC-38177, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521835/index.do>