



Administrative Office of the Courts

FOR IMMEDIATE RELEASE

July 6, 2023

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Supreme Court rules against juror bias claim by man convicted of murder

SANTA FE – The state Supreme Court today rejected claims by a Las Vegas man convicted of murder that he received an unfair trial because a juror knew one of the prosecution’s witnesses for at least two decades.

In a unanimous opinion, the state’s highest court concluded that Michael Romero had “failed to show a violation of his Sixth Amendment right to an impartial trial.”

Romero was sentenced to 20 years in prison for convictions of second-degree murder and evidence tampering for the killing of a friend of his son in 2018. The victim was shot in the head with a sawed-off shotgun in a home behind Romero’s former automotive repair business.

When attorneys questioned prospective jurors to determine who would serve on the panel for Romero’s trial, one man responded that he knew the lead crime scene investigator – a witness for the prosecution – and that he was one of her coaches in a softball program. Romero’s attorney did not object to any perceived bias and accepted the person as a juror – Juror 11.

“Here, Juror 11 stated at least five different times during voir dire that he was willing and able to serve fairly and impartially,” the Court wrote in an opinion by Justice David K. Thomson. “The statement he made during voir dire about his association with the State’s witness did not constitute actual, express bias. Further questioning would have been necessary in order for the statements to rise to the level of actual bias. However, Defendant chose not to avail himself of that opportunity.”

The Court concluded that “nothing Juror 11 said expressed prejudgment of Defendant’s guilt or a failure to obey the district court’s instruction to arrive at a verdict according to the evidence and the law.”

In today’s opinion, the justices clarified the types of bias that might arise during jury selection and cautioned that defendants who fail during their trial to object to perceived juror bias may be precluded from raising the issue on appeal.

“We hold that where alleged juror bias does not rise to the level of actual bias, and a defendant learns of the bias during voir dire, chooses not to challenge the juror for cause, does not use available peremptory challenges on the juror, and in fact affirmatively accepts the juror, that defendant has waived the right to argue actual or implied bias on appeal,” the Court wrote.

The justices concluded that the district court had no duty to dismiss Juror 11 based on the man’s responses given during jury selection and that Romero had failed to prove his attorney did not act competently in allowing Juror 11’s selection.

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To read the decision in *State v. Romero*, No. S-1-SC-39057, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521839/index.do>