



Administrative Office of the Courts

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Supreme Court reinstates defendant's conviction for 2017 killing in southwestern New Mexico

SANTA FE – The state Supreme Court today reinstated a man's second-degree murder conviction for the death of a Florida woman who was driving him to Mexico to live with a family member.

In a unanimous opinion, the Court reversed a decision of the state Court of Appeals, which had vacated the murder conviction of Isaias Lobato-Rodriguez and ordered a new trial because of a prosecutor's statement about the defendant invoking his right to remain silent after being arrested.

The Supreme Court concluded that the prosecutor erred in making the statement at the start of the trial but it did not justify reversing Lobato-Rodriguez's conviction. The justices ordered the case back to the Court of Appeals for further proceedings.

"While we agree that the prosecutor's comment violated Defendant's constitutional rights, we conclude that the error was harmless in the context of the trial as a whole," the Court wrote in an opinion by Justice Briana H. Zamora.

The justices further explained, "Under the unique circumstances of this case, we perceive no reasonable possibility that the prosecutor's comment on silence affected the jury's verdict."

The victim's body was found in 2017 by law enforcement inside a van, which had crashed into a fence along a highway in a remote area of southwestern New Mexico. The engine of the van was still running and the victim was in the driver's seat with a belt wrapped around her neck. The defendant approached officers at the scene and admitted that he strangled the victim, saying she had planned to kill him and his daughter.

Lobato-Rodriguez was an agricultural worker in Florida who had received a cash settlement for a job-related injury. The victim was a former immigration law paralegal who agreed to drive Lobato-Rodriguez to live with his daughter in a border community in the Mexican state of Sonora.

Because the defendant admitted to killing Lopez, a key legal issue in his case was whether he was sufficiently provoked to make it a crime of voluntary manslaughter rather than second-degree murder. Lobato-Rodriguez contended in his appeal that the prosecutor's comment undermined his credibility and prejudiced the jury against his defense.

“In this case, we conclude that the prosecutor's comment did not affect the jury's verdict because Defendant's testimony – even if fully credited – could not establish sufficient provocation as a matter of law,” the Court wrote. “Defendant's testimony may have established that he subjectively feared for his life, but it did not establish that his fear was objectively reasonable.”

The Court also reasoned that “the jury could not reasonably have inferred that Defendant's silence was evidence that he was hiding the truth or buying time to invent a false story of provocation because Defendant spoke to police before invoking his right to remain silent and, importantly, his initial statements were consistent with his trial testimony.”

The Court cautioned prosecutors that they risk mistrial if they comment on a defendant's post arrest silence and that such comments may also violate the rules of professional conduct.

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To read the decision in *State v. Lobato-Rodriguez*, No. S-1-SC-39294, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522315/index.do>