



Administrative Office of the Courts

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Supreme Court orders a new trial in an eviction case because no audio or written record was made of the proceeding

SANTA FE – The Bernalillo County Metropolitan Court must create a record of all civil proceedings when the law designates it as a “court of record” rather than doing so only upon the request of a litigant, the state Supreme Court ruled today.

The justices unanimously concluded that certain Metropolitan Court practices “impermissibly conflict” with state law because its procedural rules required the parties to ask for the creation of a record, otherwise no record was made.

The record, such as an audio recording or transcript, preserves the facts and evidence presented during a court proceeding. If a decision of a court of record is appealed, a higher court reviews the record to determine whether there was legal error justifying reversal of the trial court.

In a landlord tenant case, the Metropolitan Court ruled in favor of a property owner, Roy Padilla, and ordered that Ray Torres be evicted and pay \$927 in overdue rent and costs. Torres appealed to the district court, which dismissed the appeal because of the lack of a record for it to review. Neither Padilla nor Torres had requested that the eviction trial be tape recorded. Both of them had represented themselves without an attorney in the Metropolitan Court case.

Torres appealed the dismissal and the Court of Appeals certified the matter to the Supreme Court for a decision. The justices reversed the district court and ordered the case back to the Metropolitan Court for a new trial, noting that the \$927 judgment remains outstanding.

“When serving as a court of record, the metropolitan court must create a record of its proceedings irrespective of a party’s request,” the Court wrote in an opinion by Chief Justice C. Shannon Bacon.

When the Supreme Court heard arguments in the case earlier this year, it issued an administrative order that required the Metropolitan Court to record all proceedings in civil cases for which it serves as a court of record. In today’s opinion, the justices also directed one of its rule-making

committees to correct all rules and court forms “suggesting that a record of on-the-record metropolitan court proceedings will be created only if a party so requests.” The justices also indicated their “preference for an audio recording” of civil proceedings in the Metropolitan Court “to give full effect to the intent” of the law’s requirement for on-the-record proceedings. The state law does not indicate the form of the record that must be created. That is a procedural question determined by court rules.

When the eviction case was filed in 2014, state law – Section 34-8A-6(B) – designated the Metropolitan Court as a court of record for all civil cases. However, the law was amended several years later and the Metropolitan Court is no longer a court of record in landlord tenant matters.

The justices found that “the Metropolitan Court was required to make and keep a record of the trial held in this matter” under the law when the lower court ordered the eviction. The justices also explained that “our analysis with respect to the metropolitan court’s record-keeping duties as a court of record remains relevant to the current version of the statute.”

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To read the decision in *Padilla v. Torres*, No. S-1-SC-35619, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522333/index.do>