



Administrative Office of the Courts

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Supreme Court vacates convictions of man in Union County because of prosecutorial misconduct

SANTA FE – The state Supreme Court ruled today a man was wrongly retried and convicted in 2019 of child sex crimes in Union County.

In a unanimous opinion, the Court concluded that a prosecutor's conduct was so prejudicial and improper during Rudolph Amador's first trial that constitutional double jeopardy protections precluded a second trial.

The Court ordered the case back to the district court in Union County to vacate Amador's felony convictions and discharge him from custody.

Amador was charged in 2017 for allegedly sexually abusing a friend's 11-year-old daughter while spending the night at his friend's apartment in Clayton. During the first trial, the prosecutor misrepresented to the court that Amador had a prior felony conviction for child abuse. Amador actually received a conditional discharge, which is not a felony conviction under settled New Mexico law.

Because of the misrepresentation, the trial court allowed the prosecutor to use the prior case to impeach Amador when he testified to deny the allegations against him. Amador explained that he had been charged with child abuse in 2009 based on a fight with his 17-year-old stepson, and that he had never been accused of any felonies involving his stepdaughters. Two hours after a jury convicted Amador, it was disclosed to the court that he had received a conditional discharge in the 2009 case.

The trial judge scheduled a hearing to determine whether there should be a mistrial and if a second trial was barred by double jeopardy protections in the New Mexico Constitution. The judge retired before the matter was resolved, but a new judge later ordered a new trial.

Following the second trial, Amador appealed and argued that he should not have been retried. The Court of Appeals affirmed his convictions, but the Supreme Court reversed the Court of Appeals.

In an opinion by Justice Michael E. Vigil, the Court noted multiple instances of misconduct during the first trial and concluded that the “prosecutor’s conduct was sufficiently egregious to trigger the bar of double jeopardy.”

The prosecutor should have known that a conditional discharge is not a conviction, the court explained, and that Amador’s prior criminal case could not be used to impeach his credibility.

In addition, the Court wrote, “The prosecutor referred to Defendant as a pedophile *five times* in his closing argument and rebuttal, referred to the Catholic Church clergy abuse scandal, argued that Defendant should have brought his stepdaughters to testify, and asked the jurors to shift the burden of proof and protect other children from Defendant.”

Besides the improper impeachment, the Court said, “These arguments were also extremely prejudicial and improper.”

“As such, even if the prosecutor did not actually know his conduct was improper and prejudicial, it must be presumed that the prosecutor was aware of the consequences of his actions and acted with willful disregard of a mistrial or reversal in exposing the jury to inadmissible, prejudicial evidence,” the Court reasoned. “If those responsible for enforcing the law do not understand basic evidentiary rules while wielding the considerable power of the State, it undermines the public’s confidence in the justice system.”

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To read the decision in *State v. Amador*, No. S-1-SC-38941, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522365/index.do>