



## Administrative Office of the Courts

FOR IMMEDIATE RELEASE

March 4, 2024

Contact: Barry Massey, public information officer

[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)

505-470-3436

Supreme Court finds no double jeopardy violations in Albuquerque man's convictions for manslaughter and other offenses

SANTA FE – The state Supreme Court ruled today there was no double jeopardy violation in the manslaughter and aggravated battery convictions of an Albuquerque man for the fatal shooting of a friend he found in bed with his former girlfriend at a home they shared.

In a unanimous opinion, the justices reversed the state Court of Appeals and reinstated Clive Phillips' felony conviction of aggravated battery with a deadly weapon for shooting Adrian Carriaga with a handgun. The justices affirmed the defendant's manslaughter conviction for killing Carriaga.

The Court of Appeals vacated the battery conviction after deciding that it and the manslaughter conviction violated double jeopardy protections against multiple punishments for the same conduct. The Supreme Court disagreed and clarified how courts are to analyze double jeopardy questions involving a conviction from a guilty plea.

The Court of Appeals "viewed the evidence through the wrong lens," the Supreme Court wrote in an opinion by Justice David K. Thomson. "It viewed the evidence from the perspective of what a *reasonable jury could have concluded* during the trial despite the fact that Defendant's manslaughter conviction was a result of a guilty plea. This approach is mistaken. The proper analysis is not what a reasonable jury could have concluded but whether there are 'sufficient facts in the record' to support distinct conduct which would defeat a double jeopardy claim."

A jury convicted Phillips in 2015 of multiple offenses for the attack on Carriaga and Alexandria "Allie" Buhl, his ex-girlfriend and mother of his child. The jury could not reach a verdict on a homicide charge, but Phillips pleaded guilty to manslaughter in 2018 after an appeal allowed a possible retrial on that charge. A district court sentenced Phillips to 25 years in prison, with seven years suspended.

Phillips, Buhl, Carriaga and another man shared a four-bed house. Phillips returned home in 2013 to find Buhl in bed with Carriaga. She had recently broken up with Phillips and moved into her own bedroom with the baby.

Phillips beat Carriaga and Buhl with a baseball bat and left the room, returning with a handgun. He shot Carriaga in the chest and in the right armpit, running out of ammunition. He again left the room, and Buhl called 911. Phillips returned with a rifle. After asking Carriaga, “Are you ready,” Phillips positioned the rifle under the victim’s chin and fired, killing him. Phillips then shot Buhl in the leg. He grabbed her phone and told the 911 operator what had happened before ending the call. He then punched Buhl in the face, pushed her against the wall and choked her until she lost consciousness. Police arrived shortly afterward.

Phillips challenged his convictions. The Court of Appeals vacated the battery conviction for shooting Carriaga with the handgun and found a double jeopardy violation, which prosecutors conceded, in a misdemeanor battery conviction for punching Buhl.

Both Phillips and prosecutors appealed to the Supreme Court. Phillips argued that he committed a single, sustained attack and double jeopardy protections bar all but two of his convictions — manslaughter for killing Carriaga and one count of aggravated battery against a household member for attacking Buhl. Reversal of the misdemeanor battery conviction was not appealed.

The Supreme Court concluded that the challenged convictions were “each based on distinct conduct and therefore do not violate Defendant’s right against double jeopardy.” The justices affirmed his convictions of manslaughter and five counts of aggravated battery: one for shooting Carriaga with the handgun, two for beating Carriaga and Buhl with the baseball bat, one for shooting Buhl with the rifle, and one for strangling her.

The Court explained that Phillips “used different weapons for each attack” against Carriaga and “applied distinct uses of forces with each.” The justices noted that Phillips also “used different weapons for each battery against” Buhl, and while the “Defendant’s intent to harm Allie may have remained the same throughout the attack” the evidence showed that Phillips “ceased his actions and reformulated this intent between each battery.”

###

To read the decision in *State v. Phillips*, No. S-1-SC-38910, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522387/index.do>