Administrative Office of the Courts

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NM Supreme Court reverses conviction for constitutional violation of right to counsel

SANTA FE – The state Supreme Court today invalidated a Hobbs man's misdemeanor conviction because a magistrate court accepted a no contest plea without providing the defendant with a lawyer as required by the Constitution.

"This case serves as a reminder that fundamental constitutional rights cannot be jettisoned for the sake of judicial efficiency," the Court unanimously concluded in an opinion written by Justice Barbara J. Vigil. "At every level of our courts, the Constitution must stand as an immovable bulwark to secure the rights of individuals in every case. Central to our criminal justice system is the right to counsel, which in turn ensures the protection of all other rights. It is the right to counsel that was denied in this case."

Antonio Cruz was convicted in 2017 of one count of misdemeanor criminal damage to property of a household member for breaking dishes and other items in his girlfriend's home. During his appearance in magistrate court after his arrest, Cruz requested an attorney and the judge conditionally appointed a public defender. But the judge also found Cruz guilty at the hearing, accepting a plea of no contest. There is no transcript of the proceeding because magistrate courts are not a court of record.

About a month later, a public defender filed a document in the magistrate court case to officially represent Cruz and asked to withdraw the plea made without legal representation. The magistrate court denied the request and sentenced Cruz, suspending his jail time except for two days that he had served after his arrest. He was placed on supervised probation for 182 days to be followed by 180 days of unsupervised probation. His fines and fees totaled $323.

A district court dismissed Cruz's appeal and the Court of Appeals affirmed his conviction. The Supreme Court reversed their decisions, raising on its own the issue of the constitutional right to counsel. It was not among the arguments made in the defendant's appeal.

"Defendant was unconstitutionally deprived of the right to counsel when his guilt was determined, resulting in a direct Sixth Amendment violation and a denial of due process," the

Court concluded. “Defendant’s plea was therefore void and the magistrate court did not have jurisdiction to sentence him.”

The Court found that the district court wrongly dismissed Cruz’s appeal. The district court ruled that the defendant had taken no action on the appeal in violation of a rule that cases must be brought to trial within six months. However, the “six-month” rule was abolished in 2010 for district court criminal cases and it is the responsibility of the prosecution – not the defendant – to move a case forward to trial, the Court stated.

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To read the decision in *State v. Cruz*, No. S-1-SC-37751, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/493729/index.do