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Contact: Barry Massey, public information officer
bmassey@nmcourts.gov
505-470-3436

Supreme Court affirms convictions in Valencia County murder

SANTA FE – The state Supreme Court today upheld an Albuquerque man's convictions and life prison sentence for fatally shooting a man in Valencia County in 2014.

In a unanimous decision, the state's highest court concluded there was sufficient evidence to support Tony Gallegos' convictions of first-degree felony murder as an accessory, attempted robbery and conspiracy to commit armed robbery. The justices rejected Gallegos' argument on appeal that his attorney had a conflict of interest that prevented him from providing an effective defense.

A jury convicted Gallegos of killing Patrick Chavez of Los Lunas. Gallegos was among three men who planned to steal marijuana and money from Chavez's house. Gallegos entered the house, struggled with the victim and shot him multiple times.

Gallegos contended that his private attorney, Amavalise Jaramillo, had a conflict of interest because he previously represented one of the prosecution's main witnesses, Cody Cruz, who was one of the men who drove to the victim's home with Gallegos. During his trial testimony, Cruz identified Gallegos as the shooter.

Before allowing Jaramillo to replace a public defender as Gallegos' attorney, the trial court judge conducted a hearing on the conflict of interest issue and agreed that Jaramillo could serve as the defendant's defense counsel. Jaramillo had assured the judge there was no conflict, that the case had ended in which he represented Cruz and it was a property crime case unrelated to the murder. The Supreme Court determined the judge "did not abuse his discretion" in allowing Jaramillo to represent the defendant.

"While briefing certainly illuminates a *potential* conflict of interest, the record lacks critical facts to establish an actual conflict of interest was created by Jaramillo's representation of Cruz and subsequent representation of Defendant," the Court wrote in an opinion by Justice C. Shannon Bacon. "We stress, however, that Defendant's ineffective assistance of counsel claim is more

appropriately suited for a habeas corpus petition, wherein Defendant can develop a factual record regarding Jaramillo's potential conflict of interest."

A habeas corpus petition allows a prison or jail inmate to challenge matters that occurred at the trial level. A petition can be filed in a state district court after the defendant's direct appeal is resolved and the post-conviction proceeding can lead to an evidentiary hearing.

In his appeal involving the murder, Gallegos argued that his defense was undermined by Jaramillo's cross-examination of Cruz during the trial.

But the Court concluded, "The record does not indicate a curtailed cross-examination. Jaramillo conducted a lengthy examination of Cruz that pursued multiple matters of impeachment, highlighted motivations to lie, and examined inconsistent statements. Furthermore, in closing argument, Jaramillo informed the jury on multiple occasions that Cruz was the one who shot Victim."

The Court found there was "substantial evidence" to support the jury's verdicts convicting Gallegos. During the trial, the Court noted, "DNA evidence placed Defendant at the scene of the shooting, and a friend of Defendant testified that Defendant admitted to shooting Victim in the leg."

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To read the decision in *State v. Gallegos*, No. S-1-SC-37313, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/491862/index.do