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STATE SUPREME COURT UPHOLDS CONVICTIONS OF ALBUQUERQUE MAN IN DEATH OF INFANT DAUGHTER

SANTA FE – The state Supreme Court on Monday upheld the convictions of an Albuquerque man for the death and sexual assault of his 28-day-old daughter in 2011, and the child abuse of a teenage daughter.

The Court's unanimous ruling affirmed Juan Galindo's convictions for child abuse resulting in the death of a child and two counts of aggravated sexual penetration of the infant daughter, and a conviction of child abuse for endangering the emotional health of a daughter who was 13 years old at the time.

A Bernalillo County jury convicted Galindo of additional first-degree felony counts of child abuse against the infant and child abuse against the older daughter, but the Court vacated the duplicative convictions. The Court reversed Galindo's conviction for recklessly permitting the abuse of the teenage daughter, concluding that there was insufficient evidence. The Court remanded the case to the Second Judicial District Court for resentencing.

"When a jury returns multiple guilty verdicts based on alternative theories of the same offense, the district court must vacate the duplicative convictions to avoid violating the constitutional proscription against double jeopardy," the Court said in an opinion written by Justice Barbara J. Vigil.

Galindo was sentenced to two consecutive terms of life imprisonment followed by three years in prison for the abuse conviction involving the teenage daughter. In New Mexico, life imprisonment requires a defendant to serve at least 30 years before becoming eligible for parole.

The Court rejected Galindo's argument on appeal that his statements to police were involuntary and should have been excluded as evidence at his trial. The Court also said the district court properly allowed photographs of the infant's body to be used as evidence at the trial.

"The State argues that the photographs in Defendant's case were relevant to establish that the crimes actually occurred and that the photographs were necessary to refute Defendant's only defense—that he inflicted Baby's injuries in an attempt to revive her. We agree," the Court said. "The photographs are graphic, heartbreaking, and difficult to view, but they convey the nature and extent of Baby's injuries in a manner that words cannot."

Galindo argued that the photographs were unfairly prejudicial. The district court judge reviewed the photographs before admitting them as evidence and excluded the use of six.

Galindo told police that he hit the infant, including on the chest and face, in a panicky attempt to revive her from choking. He admitted to smoking methamphetamine that day. The Office of the Medical Investigator found no signs of choking and concluded that the infant died of "multiple blunt force injuries," including a skull fracture and bruising and bleeding in her brain

On the night the infant died, Galindo repeatedly called out for assistance from the teenager daughter but refused to allow her to seek help from nearby relatives. The Court said the jury could reasonably have found that Galindo endangered the teenager's "emotional health by compelling her to witness and participate in the further abuse of Baby's lifeless body, as Defendant tried to undo the effects of what he already had done."

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To read the opinion in *State v, Galindo,* No. S-1-SC-35382 slip op. (N.M. S. Ct. March 5, 2018), please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC35,382.pdf