Administrative Office of the Courts

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STATE SUPREME REVERSES INDICTMENT DISMISSAL IN TAOS ROBBERY PROSECUTION

SANTA FE – The New Mexico Supreme Court issued an opinion today holding that the Legislature has not given state courts the authority to dismiss otherwise valid indictments because a grand jury considered evidence inadmissible at trial.

The Court reversed a district court's dismissal of charges against Isaac Martinez and Carla Casias for the robbery of Kit Carson Electric Co-op in 2013. The case was ordered back to the Eighth District Court in Taos for further proceedings. The district court had dismissed the indictments because evidence presented to the grand jury was discovered through the use of improperly issued investigative subpoenas for cell phone records.

In a unanimous opinion, the Supreme Court held that a long line of New Mexico statutes and judicial precedents confirm that "the district court lacked authority to review the admissibility of evidence considered by the grand jury." State law permits a review of evidence supporting an indictment only if there is a showing of bad faith by the prosecutor assisting the grand jury. But once a criminal case goes to trial, a court can bar the use of improperly obtained evidence.

Beginning with a ruling in 1923, the Supreme Court "has consistently honored a strong policy of resisting dismissal of otherwise valid grand jury indictments based on disputes about the source or trial admissibility of the evidence considered by the grand jury," the Court said in its opinion written by Justice Charles Daniels.

A grand jury indicted Martinez and Casias, the co-op's billing supervisor, on one count each of armed robbery and conspiracy to commit armed robbery.

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To read the opinion in *State v. Martinez*, No. S-1-SC-35757 slip op. (N.M. S. Ct. April 23, 2018), please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC35,757.pdf