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Supreme Court rejects new trial for man convicted of Carlsbad murder

SANTA FE – The state Supreme Court today denied a new trial for a Carlsbad man convicted of depraved mind murder, but overturned his convictions on three other charges related to the 2016 shooting.

In a unanimous decision, the state's highest court concluded there was insufficient evidence to support Roberto Vargas' convictions for shooting at a dwelling and tampering with evidence. The justices vacated his conviction of conspiracy to commit depraved mind murder because there is no such crime in New Mexico.

Vargas was sentenced to life in prison – a mandatory 30 years before becoming eligible for parole – for the murder conviction and an additional 39 years for five other convictions related to the death of Eric Flores and the wounding of Janell Villareal.

The justices ordered the case back to the Fifth Judicial District Court. Vargas' sentence included 25½ years for the convictions that were overturned. The Supreme Court's decision left in place convictions for first-degree depraved mind murder, aggravated battery and contributing to the delinquency of a minor.

The shooting occurred outside a home where Vargas and another man had fought in the early morning hours of July 5, 2016. Vargas returned a short time later in a pickup truck along with a teenager and the teen's cousin, who was driving. Vargas fired a shotgun from the passenger seat and the teen fired an AK-47 assault rifle from the bed of the truck. Two other people outside the house were not injured.

In overturning the conviction for shooting at a dwelling, the Court said "the evidence in this case supports that the Defendant and his companions fired at a group of people in front of houses, not at the houses themselves."

Law enforcement never found the shotgun fired by Vargas, and the Court concluded that was insufficient to prove Vargas had a specific intent to tamper with evidence.

Vargas asked for a new trial because the district court judge did not instruct the jury about a possible defense that he was intoxicated and unable to form the criminal state of mind required to convict him of the killing and several other offenses. The justices noted that Vargas "never raised the defense of diminished capacity" from his intoxication.

"Contrary to Defendant's assertion, the lack of a voluntary intoxication instruction in this case does not implicate 'a fundamental unfairness within the system that would undermine judicial integrity if left unchecked' and therefore did not result in fundamental error," the Court wrote in an opinion by Justice Barbara J. Vigil.

Additionally, Vargas contended that he should receive a new trial because the judge limited his attorney's questioning of two witnesses, including the driver of the truck. The Court disagreed.

On appeal, state prosecutors conceded there is no crime of conspiracy to commit depraved mind murder but they urged the Court to send the case back to the district court and direct the judge to enter a conviction for conspiracy to commit second-degree murder. The justices declined.

"By convicting Defendant of the nonexistent crime of conspiracy to commit depraved mind murder, the jury did not find that Defendant had the intent to achieve the result of the death of another and therefore did not find all of the essential elements of conspiracy to commit second-degree murder," the Court reasoned.

Depraved mind murder does not require the defendant to intend to kill another person, unlike second-degree murder. A conviction for depraved mind murder requires the defendant to act in an extremely reckless manner without regard for human life but with knowledge that the conduct greatly endangers others. The defendant also must have "an intensified malice or evil intent," the Court explained in distinguishing depraved mind murder from second-degree murder.

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To read the decision in *State v. Vargas*, No. S-1-SC-36773, please visit the New Mexico Compilation Commission's website using the following link:

https://decisia.lexum.com/nmos/nmsc/en/item/462195/index.do