Administrative Office of the Courts

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NM Supreme Court upholds Albuquerque man's first-degree murder conviction

SANTA FE – The state Supreme Court today upheld the convictions of an Albuquerque man for first-degree murder and conspiracy to commit first-degree murder for a 2012 fatal shooting outside an apartment.

The Court, in a unanimous decision, vacated Jason Nowicki's convictions of felony murder, conspiracy to commit felony murder and shooting at a dwelling or occupied building.

The justices, based on the legal precedent of a 2019 decision by the Court in a separate case, tossed out the conviction for shooting at a dwelling because evidence showed the intended target was the victim, Eduardo Quintana — not the apartment building he was outside of when he was shot by Nowicki.

The crime of shooting at a dwelling or occupied building was the underlying felony used for the felony murder charge against Nowicki. Felony murder is a killing that occurs during the commission of a felony. The crime is punishable by life in prison.

"The salient facts here are that Defendant did not immediately shoot at the apartment building, but rather waited for Victim to arrive. Further, Defendant called out to Victim before shooting, and the evidence shows that after the shooting ceased, Defendant asked if he had hit Victim. Viewed in a light most favorable to the verdict, the evidence supports that Defendant was shooting at Victim, not the dwelling behind him," the Court stated in an opinion written by Justice C. Shannon Bacon.

The Court rejected an argument in Nowicki's appeal that the trial court erred in allowing evidence and testimony about bullet markings, which linked the murder weapon to Nowicki, without first holding a hearing to assess the reliability and validity of the scientific techniques.

The Court ordered the case back to the district court in Bernalillo County for further proceedings, including new sentencing. Nowicki was sentenced to life in prison for the first-degree murder

and felony murder – with both sentences to be served at the same time – and an additional 18 years for his other convictions.

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To read the decision in *State v. Nowicki*, No. S-1-SC-37388, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/469466/index.do