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NM Supreme Court clarifies law on duress defense in case involving woman who hit ex-boyfriend with her car

SANTA FE – The state Supreme Court today reinstated an Albuquerque woman's convictions for hitting her ex-boyfriend with her car after fleeing his house where he had allegedly made unwanted sexual advances.

The Court's unanimous ruling clarified New Mexico law on when criminal defendants can claim a defense of duress — that they were forced to act because of an immediate threat of serious harm.

The justices overturned a decision of the Court of Appeals, which had ordered a new trial for Crystal Ortiz on charges of great bodily injury by vehicle and aggravated battery. The Court of Appeals had reversed her convictions on the two charges because the jury was not instructed to consider whether she acted under duress.

The Supreme Court concluded that Ortiz was not entitled to the jury instruction because defendants can claim duress only if they admit to committing the crime. Ortiz testified that she accidentally struck Brandon Hughes with her car.

Ortiz and Hughes met for dinner and then went to a bar. She became intoxicated and they drove to his house in her car. Each offered differing accounts of what happened. She testified that she fled his house after he made unwanted sexual advances and was distressed by Hughes' aggressive behavior because he allegedly tried to rape her years before. Hughes denied ever sexually assaulting Ortiz or threatening and making sexual advances toward her that night. Hughes said he followed Ortiz outside when she left and got into her vehicle because she was drunk. She ordered him out after several blocks. Hughes said he was walking home on the sidewalk when the vehicle struck him and crashed into a fence while he was on the hood. Ortiz said Hughes grabbed her phone from her hand as she attempted to call her father, causing her to jerk the wheel and hit the fence as he jumped out of the vehicle.

“In sum, the gist of Ortiz’s testimony was that she did not even know Hughes was struck when she hit the fence. He was struck accidentally and nonvolitionally,” the Court stated in an opinion by Chief Justice Judith K. Nakamura.

Under the law, the Court said, “it is a necessary and immovable presupposition of duress that the accused admit performing the criminal act with which she is charged.”

“This law exists for good reason,” the Court stated. “If Ortiz was permitted to invoke duress as to the crimes charged for striking Hughes and if her jury was instructed on duress as a defense to those charges, her jury would have been required to ask and answer an entirely nonsensical question: whether a reasonable person in Ortiz’s position would also have accidentally hit Hughes. Accidents are, by definition, unique events caused by circumstances that are not reproducible. It makes no sense to ask whether a reasonable person in Ortiz’s position would also have accidentally struck Hughes.”

The justices sent Ortiz’s case back to the Court of Appeals for consideration of a remaining legal issue of whether her convictions violate constitutional double jeopardy protections. Ortiz was convicted of aggravated DWI and leaving the scene of a crime in addition to great bodily injury by vehicle and aggravated battery.

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To read the decision in *State v. Ortiz*, No. S-1-SC-36865, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/469691/index.do