Administrative Office of the Courts

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NM Supreme Court dismisses appeal of defendant's sentence for double murder

SANTA FE – The state Supreme Court today dismissed an Albuquerque man's appeal of two consecutive life prison sentences for a double murder in 2017.

In a unanimous decision, the Court concluded that Brandon Vigil waived his right to appeal his sentence when he accepted a plea agreement that provided for the waiver. The Court ruled that Vigil could challenge the constitutionality of his sentence through a post-conviction proceeding by filing a petition for a writ of habeas corpus.

Vigil must serve at least 60 years in prison before becoming eligible for parole. He was 19 years old when he fatally shot two friends, Daniel Miramontes and Consuela Rios.

During his sentencing, Vigil acknowledged to the trial court judge that he understood the terms of his plea agreement and that he was giving up his right to challenge the constitutionality of his sentence on a direct appeal, which is the appeal to a higher court initially after a conviction.

"Defendant entered into the plea agreement to preserve the possibility that he would eventually be eligible for parole, but agreed that the district court had the discretion to run his two sentences consecutively. Defendant voluntarily, knowingly, and intelligently waived his right to appeal," the Court held in an opinion written by Justice David K. Thomson.

Vigil initially pleaded guilty to two counts of first-degree murder but changed his plea to no contest at his sentencing. Under his plea agreement, the prosecution would not seek a sentence of life imprisonment without parole but Vigil would receive a life sentence for each murder. It was up to the judge to decide whether the sentences would be served concurrently – making Vigil eligible for parole after 30 years – or consecutively, which required him to serve 60 years before parole eligibility.

In his appeal, Vigil contended that because of his age his consecutive sentences were essentially the same as life in prison without parole and violated constitutional prohibitions against cruel and

unusual punishment. The Court did not rule on that legal question but indicated the issue could be raised in a habeas proceeding.

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To read the decision in *State v. Vigil*, No. S-1-SC-37763, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/492455/index.do