



Administrative Office of the Courts

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July 9, 2026

NM Supreme Court affirms man's convictions in fatal shooting of Alamogordo police officer

SANTA FE – The state Supreme Court today upheld an Alamogordo man's convictions of first-degree murder and evidence tampering in the death of a police officer in 2023.

The Court unanimously concluded there was sufficient evidence for Dominic De La O's convictions and rejected other arguments in his appeal, including that the district court should have declared a mistrial because of certain witness testimony.

De La O was sentenced to life in prison without possibility of parole or release for the fatal shooting of Alamogordo Police Officer Anthony Ferguson, who was chasing De La O on foot after the defendant crashed a car following a traffic stop and high-speed pursuit in the community.

On appeal, De La O argued that the evidence failed to show he had the required criminal intent for willful and deliberate murder and that his conduct instead represented second-degree murder because the fatal shooting was a rash and impulse act. The Court disagreed.

In a decision written by Justice David K. Thomson, the Court explained that De La O made a series of choices from the time the car was pulled over for non-working tail lights. First, he fled and kept his sawed-off shotgun. He then ran away on foot from police after crashing the car and took the weapon with him.

"When officers ordered him to get on the ground, the jury could reasonably have inferred that Defendant deliberately chose not to comply with those orders, but rather to shoot Victim in the face with the sawed-off shotgun that he kept with him for just such a purpose," the Court wrote. "We conclude that a reasonable jury could have inferred from those facts a deliberate intent to murder Victim."

The justices also determined there was sufficient evidence for the evidence tampering charge.

"When a defendant discards a murder weapon while fleeing the scene, it is reasonable to infer the defendant has done so to avoid prosecution for the murder," the Court explained, adding that the jury also could have determined that De La O discarded a blue t-shirt to avoid identification and prosecution.

De La O contended that the trial erred in denying his request for a mistrial after a witness testified that De La O knew when he fled from police that he had an active arrest warrant. The Court noted that there was no other mention of the warrant after the trial court admonished the jury to disregard the testimony and not consider it as evidence during deliberations.

“In this case, the other evidence of guilt was overwhelming,” the Court wrote, adding that in the overall context of the trial “the single mention of Defendant’s outstanding warrant was not important to the prosecution’s case and is unlikely to have affected the verdict.”

The Court rejected De La O’s challenges to instructions given to the jury about murder and the aggravated circumstance of murder of a police officer. The justices also concluded that the trial court properly followed the law in finding aggravated circumstances to lengthen De La O’s sentences for evidence tampering and aggravated fleeing a law enforcement officer.

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To read the decision in *State v. De La O*, No. S-1-SC-40702, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/538391/index.do>