

STATE V. BENALLY

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
PRESTON BENALLY,
Defendant-Appellant.

No. 32,112

COURT OF APPEALS OF NEW MEXICO

June 15, 2012

APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY, Robert A. Aragon,
District Judge

COUNSEL

Gary K. King, Attorney General, Margaret E. McLean, Assistant Attorney General, Joel Jacobson, Assistant Attorney General, Santa Fe, NM, for Appellee

Jacqueline L. Cooper, Chief Public Defender, Sergio Viscoli, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

RODERICK T. KENNEDY, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge,
JONATHAN B. SUTIN, Judge

AUTHOR: RODERICK T. KENNEDY

MEMORANDUM OPINION

KENNEDY, Judge.

The State appeals from an order of suppression. We proposed to affirm in a calendar notice. We noted that the State bears the burden of establishing reasonable suspicion

to make a stop, and we proposed to hold that the district court could determine whether there was sufficient support for the stop in this case. The State informs this Court that it will not be filing a memorandum in opposition to our calendar notice. We therefore affirm based on the discussion in our calendar notice.

IT IS SO ORDERED.

RODERICK T. KENNEDY, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

JONATHAN B. SUTIN, Judge