

STATE V. MESCAL

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
TIMOTHY J. MESCAL,
Defendant-Appellant.

NO. 30,784

COURT OF APPEALS OF NEW MEXICO

February 18, 2011

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Thomas J. Hynes,
District Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, Jacqueline R. Medina, Assistant Attorney General, Albuquerque, NM, for Appellee

Hugh W. Dangler, Chief Public Defender, Santa Fe, NM, Mark A. Curnutt, Assistant Public Defender, Albuquerque, NM, for Appellant

JUDGES

RODERICK T. KENNEDY, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge, TIMOTHY L. GARCIA, Judge.

AUTHOR: RODERICK T. KENNEDY

MEMORANDUM OPINION

KENNEDY, Judge.

Defendant appeals his conviction for driving under the influence of intoxicating liquor (DUI). We issued a notice of proposed summary disposition proposing to reverse on the

basis that the district court erred in allowing the arresting officer to give scientific evidence regarding Defendant's blood alcohol content. The State has responded that it does not oppose reversal of Defendant's conviction on this basis.

Accordingly, we reverse Defendant's conviction. Because we reverse on this basis, we do not reach the other grounds for reversal discussed in our notice of proposed summary disposition.

IT IS SO ORDERED.

RODERICK T. KENNEDY, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

TIMOTHY L. GARCIA, Judge