

STATE V. MONAFO

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**STATE OF NEW MEXICO,
Plaintiff-Appellant,
v.
JOHN BENNETT MONAFO,
Defendant-Appellee.**

No. 32,315

COURT OF APPEALS OF NEW MEXICO

November 15, 2012

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY, Freddie J. Romero,
District Judge

COUNSEL

Gary K. King, Attorney General, Ann M. Harvey, Assistant Attorney General, Santa Fe, NM, for Appellant

John Monafó, Roswell, NM, Pro Se Appellee

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: MICHAEL E. VIGIL, Judge, LINDA M. VANZI, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

The State appeals the district court's order granting Defendant's motion to suppress and the order denying the State's motion for reconsideration. We issued a notice of proposed summary disposition proposing to affirm because the State's appeal of the

merits is barred by principles of double jeopardy. See *City of Santa Fe v. Marquez*, 2012-NMSC-031, ¶¶ 12, 28, 285 P.3d 637.

The State has filed a response conceding that, in accordance with our Supreme Court's decision in *Marquez*, the district court's order in this case granting Defendant's post-trial motion to suppress and declaring Defendant "not guilty on all counts" prohibits any further prosecution. See *id.* [Resp. 2-3] Thus, the State does not oppose our proposed disposition to summarily affirm.

Therefore, for the reasons set forth in our notice of proposed summary disposition, we affirm the district court's order granting Defendant's motion to suppress and the order denying the State's motion for reconsideration.

IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

MICHAEL E. VIGIL, Judge

LINDA M. VANZI, Judge