

STATE V. YOUNG

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JAMES YOUNG,
Defendant-Appellant.**

No. 33,751

COURT OF APPEALS OF NEW MEXICO

March 23, 2015

APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY, Jane Shuler Gray,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Margaret McLean, Assistant Attorney General,
Santa Fe, NM, for Appellee

Jorge A. Alvarado, Chief Public Defender, Santa Fe, NM, for Appellant

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: RODERICK T. KENNEDY, Judge,
TIMOTHY L. GARCIA, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

{1} Defendant pled to burglary and possession of drug paraphernalia, reserving the right to appeal the denial of a motion to dismiss. On December 4, 2014, we issued a notice of proposed summary disposition in which we proposed to reverse.

{2} On February 2, 2015, the State filed a response with this Court, indicating that it would be filing a motion for stay with the New Mexico Supreme Court and requesting that we await a decision from that Court on the State's motion before taking further action in this case. We have done so. The New Mexico Supreme Court has recently denied the State's motion.

{3} Although it is less than entirely clear, the State's response may incorporate a similar request that this Court stay or hold this case in abeyance pending a decision from the New Mexico Supreme Court in *State v. Archuleta*, ____-NMCA-____, ____ P.3d. ____ (No. 32,794, Oct. 27, 2014), *cert. granted*, 2015-NMCERT-____, ____ P.3d ____ (No. 35,005, Jan. 26, 2015). To the extent that such a request is made, it is denied.

{4} Turning to the merits, we previously opined that Defendant's conviction for burglary cannot stand in light of this Court's decision in *Archuleta*. The State indicates that it "is unable to provide any additional facts or other legal argument in response to the proposed disposition." [MIO 2-3]

{5} Accordingly, for the reasons stated in our notice of proposed summary disposition, we reverse and remand for further proceedings consistent therewith.

{6} **IT IS SO ORDERED.**

JONATHAN B. SUTIN, Judge

WE CONCUR:

RODERICK T. KENNEDY, Judge

TIMOTHY L. GARCIA, Judge