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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-39666

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

RANDALL MELTON,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY

Jane Shuler Gray, District Judge

Hector H. Balderas, Attorney General
Maris Veidemanis, Assistant Attorney General
Santa Fe, NM

for Appellee

Harrison, Hart & Davis, LLC
Nicholas T. Hart
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

IVES, Judge.

{1} Defendant appeals his conviction for harboring or aiding a felon, arguing inter alia that the district court erred by denying his motion to suppress the evidence. After Defendant filed his brief in chief, the Federal District Court for the District Court of New Mexico issued a memorandum opinion and order, suppressing the evidence in a federal prosecution of Defendant on federal charges that were based on the same facts and events that gave rise to Defendant's state charges and suppression motion in the current case. The State filed an answer brief in the current case expressing its agreement with the federal district court's analysis and stating that this Court should

vacate Defendant's conviction and need not address Defendant's other arguments regarding the jury instructions. [AB 2] On the basis of the State's concession and the federal district court's opinion, Defendant filed an unopposed motion for issuance of an expedited opinion vacating his conviction and for expedited mandate. Having independently reviewed the federal district court's opinion and the record on appeal, we agree that suppression was wrongfully denied and that Defendant's conviction should be vacated expeditiously. In light of the parties' agreement on this matter, we agree to expedite mandate.

{2} Accordingly, we grant Defendant's motion, vacate Defendant's conviction for harboring or aiding a felon, and remand to the district court. Mandate shall issue forthwith.

{3} IT IS SO ORDERED.

ZACHARY A. IVES, Judge

WE CONCUR:

JACQUELINE R. MEDINA, Judge

JANE B. YOHALEM, Judge