

STATE V. MONTOYA, Docket 126 N.M. 530, 972 P.2d 349 (S. Ct. 1999)

**STATE OF NEW MEXICO, Plaintiff-Appellee,
vs.
CARLOS RAY MONTOYA, Defendant-Appellant.**

Docket No. 25,216

SUPREME COURT OF NEW MEXICO

126 N.M. 530, 972 P.2d 349

February 09, 1999, Decided

OPINION

{*530} ORDER

WHEREAS, this matter came on for consideration upon petition for writ of certiorari, and the Court having considered said petition and being sufficiently advised, issued its writ of certiorari on May 14, 1998, and, after further consideration of the petition and briefs filed therein, and oral argument by the parties, the judgment of the Court is that the writ shall be quashed, Chief Justice Pamela B. Minzner, Senior Justice Joseph F. Baca, Justice Gene E. Franchini, Justice Patricio M. Serna, and Justice Petra Jimenez Maes concurring;

NOW, THEREFORE, IT IS ORDERED that the writ of certiorari issued on May 22, 1998, hereby is QUASHED.

WITNESS, The Hon. Pamela B. Minzner, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 9th day of February, 1999.

MANDATE NO. 25,126

TO the New Mexico Court of Appeals, GREETINGS:

WHEREAS, in cause numbered 18,598 on your criminal docket, wherein State of New {*531} Mexico was plaintiff, Carlos Ray Montoya was defendant, a formal opinion/memorandum opinion was entered by the New Mexico Court of Appeals on April 2, 1998;

WHEREAS, the cause were afterwards brought by defendant to this Court for review by petition for writ of certiorari pursuant to Rule 12-502 NMRA, which petition was granted on May 22, 1998, whereupon a writ of certiorari was issued; and

WHEREAS, an order quashing the writ of certiorari was entered on February 9, 1999.

NOW, THEREFORE, this cause is remanded to you **with instruction to convert the formal published opinion to an unpublished memorandum opinion** and for other proceedings, if any.

WITNESS, The Hon. Pamela B. Minzner, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 9th day of February, 1999.

WITHDRAWN COURT OF APPEALS OPINION:

State v. Montoya

Opinion Number: 1998-NMCA-074 Filed April 2, 1998

Docket No. 18,598

1998-NMCA-74, 125 N.M. 242, 959 P.2d 967