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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Filing Date: October 31, 2019

NO. S-1-SC-37377

PETER DEAN MENDOZA,

Petitioner,

v.

**GERMAN FRANCO, Warden,
and STATE OF NEW MEXICO,**

Respondents.

**ORIGINAL PROCEEDING ON CERTIORARI
James Lawrence Sanchez, District Judge**

Bennett J. Baur, Chief Public Defender
C. David Henderson, Appellate Defender
MJ Edge, Assistant Appellate Defender
Santa Fe, NM

for Petitioner

Hector H. Balderas, Attorney General
Margaret Jayne Crabb, Assistant Attorney General
Santa Fe, NM

for Respondents

DISPOSITIONAL ORDER OF REVERSAL

{1} WHEREAS, this matter having come before the Court upon our grant, pursuant to Rule 12-501 NMRA, of Petitioner Peter Mendoza's petition for writ of certiorari seeking review of the district court's denial of his petition for writ of habeas corpus; and

{2} The Court having considered the briefs and being otherwise fully informed on the issues and applicable law; and

{3} The Court finding that there is no reasonable likelihood that a decision or formal opinion of the Court, under the instant facts, would materially advance the law of the State; and

{4} The Court exercising its discretion under Rule 12-405(B)(1), (2) NMRA to dispose of a case by order, decision, or memorandum opinion rather than formal opinion;

{5} NOW, THEREFORE, IT IS ORDERED that the decision of the district court to dismiss Petitioner's petition for writ of habeas corpus is reversed, that one of Petitioner's convictions of NMSA 1978, Section 30-7-16 (2001) is vacated, and that this matter is remanded to the district court for further proceedings consistent with this order.

{6} IT IS SO ORDERED.

JUDITH K. NAKAMURA, Chief Justice

BARBARA J. VIGIL, Justice

MICHAEL E. VIGIL, Justice

C. SHANNON BACON, Justice

DAVID K. THOMSON, Justice