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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Filing Date: July 24, 2023

No. S-1-SC-38919

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

DAVID PADILLA,

Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY
Karen Townsend, District Judge**

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

for Appellant

Bennett J. Baur, Chief Public Defender
Tania Shahani, Appellate Public Defender
Santa Fe, NM

for Appellee

DISPOSITIONAL ORDER OF AFFIRMANCE

VIGIL, Justice.

{1} WHEREAS, this matter came before this Court on the State's direct appeal under Rules 5-802(N)(1) and 12-102(A)(3) NMRA of the district court's order granting Defendant David Padilla's fourth amended petition for writ of habeas corpus and order for duration-review hearing under NMSA 1978, Section 31-21-10.1(C) (2007), which requires a duration-review hearing after five years served on supervised parole, on the grounds that Defendant was not entitled to this hearing because he had not yet served

five years of supervised parole in “the community,” NMSA 1978, § 31-21-5(B) (1991, amended 2023);

{2} WHEREAS, the Court placed this matter on the general calendar and ordered that this case be held in abeyance pending the Court’s disposition of *State v. Thompson*, 2022-NMSC-023, 521 P.3d 64;

{3} WHEREAS, this Court has issued an opinion and mandate in *Thompson, id.*;

{4} WHEREAS, the Court concludes that the issue of law presented in this case was addressed by the Court’s opinion in *Thompson, id.*; and

{5} WHEREAS, the Court exercises its discretion under Rule 12-405(B)(1) NMRA to dispose of this case by nonprecedential order rather than a formal opinion;

{6} NOW, THEREFORE, IT IS ORDERED that the abeyance is VACATED and the district court’s order granting Defendant’s fourth amended petition for writ of habeas corpus and ordering a duration-review hearing is AFFIRMED, and the matter is REMANDED to the district court for further proceedings in accordance with *Thompson*, 2022-NMSC-023.

{7} IT IS SO ORDERED.

MICHAEL E. VIGIL, Justice

WE CONCUR:

C. SHANNON BACON, Chief Justice

DAVID K. THOMSON, Justice

JULIE J. VARGAS, Justice

BRIANA H. ZAMORA, Justice