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**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**Filing Date: March 25, 2024**

**No. S-1-SC-38820**

**STATE OF NEW MEXICO,**

Plaintiff-Appellant,

v.

**JORGE REYES,**

Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY  
Bruce C. Fox, District Judge**

Hector H. Balderas, Attorney General  
Charles J. Gutierrez, Assistant Attorney General  
Santa Fe, NM

for Petitioner

Bennett J. Baur, Chief Public Defender  
Kimberly Chavez Cook, Appellate Defender  
Charles D. Agoos, Assistant Appellate Defender  
Santa Fe, NM

for Respondent

**DISPOSITIONAL ORDER OF REVERSAL**

**THOMSON, Justice.**

{1} WHEREAS, this matter came on for consideration upon the State's direct appeal under Rule 12-102(A)(3) NMRA and Rule 5-802 NMRA of the district court's order granting Defendant Jorge Reyes's petition for writ of habeas corpus and concluding that, based on *State v. Sena*, 2021-NMCA-047, 495 P.3d 1163, Defendant, who was convicted of Child Solicitation by Electronic Device (CES) contrary to NMSA 1978,

Section 30-37-3.2(C)(1) (2007), was subject to the general period of parole under NMSA 1978, Section 31-21-10(D) (2009), rather than the extended parole period under the sex offender parole statute, NMSA 1978, Section 31-21-10.1(A) (2007) (requiring the imposition of an indeterminate period of parole of either five to twenty years or five years to life for those convicted of certain sex offenses);

{2} WHEREAS, following full briefing, this Court ordered the appeal held in abeyance pending its disposition of *State v. Sena*, S-1-SC-38713;

{3} WHEREAS, this Court issued an opinion in *State v. Sena*, holding that defendants convicted of CES are subject to the imposition of an indeterminate parole sentence of five to twenty years under the sex offender parole statute, see *id.*, 2023-NMSC-007, ¶¶ 3-4, 25, 528 P.3d 631;

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

{5} WHEREAS, the Court exercises its discretion under Rule 12-405(B)(1) NMRA to dispose of this case by nonprecedential order rather than a formal opinion;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

{7} NOW, THEREFORE, IT IS ORDERED that the Court's January 31, 2022, order in this matter is VACATED as to the abeyance; and

{8} IT IS FURTHER ORDERED that the district court's April 28, 2021, order granting Defendant's petition for writ of habeas corpus is REVERSED, and this matter is REMANDED to the district court for further proceedings, including the amendment of Defendant's parole sentence, in accordance with *Sena*, 2023-NMSC-007.

{9} IT IS SO ORDERED.

**DAVID K. THOMSON, Justice**

**WE CONCUR:**

**C. SHANNON BACON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**BRIANA H. ZAMORA, Justice**