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

Court of Appeals of New Mexico  
Filed 4/1/2024 11:15 AM

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,



Cynthia A. Hernández-Madrid  
Acting Chief Clerk

v.

**No. A-1-CA-41617**

**CHRISTIAN ALONZO,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY**

**Fred Van Soelen, District Court Judge**

Raúl Torres, Attorney General

Santa Fe, NM

Van Snow, Acting Deputy Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Santa Fe, NM

for Appellant

**MEMORANDUM OPINION**

**BOGARDUS, Judge.**

{1} Defendant appeals the district court's determination that Defendant's  
conviction for abandonment of a child resulting in death was a serious violent  
offense, under the earned meritorious deductions statute (EMD), NMSA 1978,  
Section 33-2-34(L)(4)(o)(8) (2015). In this Court's notice of proposed disposition,

1 we proposed to summarily reverse. The State has filed a memorandum in opposition,  
2 which we have duly considered. Remaining unpersuaded, we reverse.

3 {2} The State’s memorandum in opposition asserts that the district court’s  
4 findings were adequate to support its determination that Defendant’s conviction was  
5 a serious violent offense. [MIO 6] When making its decision, the district court  
6 verbally highlighted the “nature of the offense, and the nature of what caused [th  
7 victim] to die, and then the resulting harm.” [MIO 3] The district court also listed  
8 the victim’s injuries and opined that designating the crime as a serious violent  
9 offense was “not really a difficult decision.” [CN 4; MIO 3] In listing the victim’s  
10 injuries, the district court included partially-healed injuries that had occurred in the  
11 past. [MIO 3]

12 {3} As noted in our proposed disposition, the district court was required to make  
13 “[e]xpress findings [to] demonstrate that the crime was committed in a physically  
14 violent manner either with an intent to do serious harm or with recklessness in the  
15 face of knowledge that one’s acts are reasonably likely to result in serious harm.”  
16 *State v. Branch*, 2018-NMCA-031, ¶ 56, 417 P.3d 1141 (internal quotation marks  
17 and citation omitted). According to the State, a recklessness determination was  
18 implicit in the district court’s findings regarding the victim’s injuries, and such an  
19 inference satisfies the purposes for which findings are required—to inform  
20 Defendant of the factual basis on which his good time credit is being substantially

1 reduced and to allow this Court to conduct meaningful appellate review. [MIO 5-6]  
2 We disagree. The State’s memorandum in opposition has not identified any findings  
3 addressing Defendant’s intent to do serious harm or his recklessness in the face of  
4 knowledge that serious harm would result. *See State v. Mondragon*, 1988-NMCA-  
5 027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (“A party responding to a summary calendar  
6 notice must come forward and specifically point out errors of law and fact,” and the  
7 repetition of earlier arguments does not fulfill this requirement.), *superseded by*  
8 *statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d  
9 374. Accordingly, we conclude the district court’s findings in this case failed to tie  
10 the victim’s injuries to the “intent or recklessness in the face of knowledge standard”  
11 required by *State v. Morales*, 2002-NMCA-016, 131 N.M. 530, 39 P.3d 747, and its  
12 progeny. [CN 4] *See State v. Loretto*, 2006-NMCA-142, ¶¶ 14, 19, 140 N.M. 705,  
13 147 P.3d 1138 (stating that the district court is required to make specific findings  
14 regarding both the nature of the offense and the resulting harm).

15 {4} Furthermore, even assuming the State is correct in asserting that there is a  
16 basis for the necessary findings in this case, it is not for this court to make such  
17 findings for the first time on appeal. *See Branch*, 2018-NMCA-031, ¶ 56 (“Even  
18 where support exists in the record for the district court to make such a determination,  
19 it is up to the district court in the first instance to make the required findings.”); *State*  
20 *v. Scurry*, 2007-NMCA-064, ¶ 6, 141 N.M. 591, 158 P.3d 1034 (“[T]he district court

1 is required to explain its conclusions and findings and not leave it up to the appellate  
2 court either to speculate as to what the court relied on or to itself engage in judicial  
3 fact finding.” (internal quotation marks and citation omitted)). Accordingly, though  
4 the district court’s findings regarding the victim’s injuries may bear on the nature of  
5 the offense, we cannot ascertain from them Defendant’s intent or degree of  
6 recklessness without considerable inference. *See Scurry*, 2007-NMCA-064, ¶ 12  
7 (concluding that findings might bear on the nature of the offense, but failed to  
8 indicate the basis for the district court’s conclusion that the defendant acted with  
9 intent or recklessness); *see also Branch*, 2018-NMCA-031, ¶ 56 (stating that the  
10 purpose of specific factual findings in this context is “to permit meaningful and  
11 effective appellate review of the [district] court’s designation” (internal quotation  
12 marks and citation omitted)).

13 {5} The State also argues that we should overturn *Morales* and its progeny  
14 because the legal basis for the rule stated therein is “unclear” and not required by  
15 statute. [MIO 6] The State’s argument, however, does not acknowledge that this  
16 Court’s judicial obligation to follow precedent “lies at the very core of the judicial  
17 process of interpreting and announcing law.” *See Trujillo v. City of Albuquerque*,  
18 1998-NMSC-031, ¶ 33, 125 N.M. 721, 965 P.2d 305 (explaining the importance of  
19 stare decisis in the maintenance of a sound judicial system). Moreover, overturning  
20 precedent demands special justification, and the State does not explain how the law

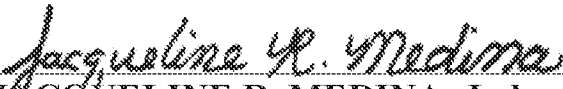
1 has developed or facts have changed since we decided *Morales*. *See id.* ¶ 34  
2 (discussing the special justification necessary to depart from prior precedent).  
3 Accordingly, we have no basis for overruling *Morales* and decline the State’s request  
4 to do so.

5 {6} For the reasons stated in our notice of proposed disposition and herein, we  
6 reverse the district court’s designation of child abandonment resulting in death as a  
7 serious violent offense and remand for sentencing in accordance with the EMD.

8 {7} **IT IS SO ORDERED.**

9  
10   
KIRSTINA BOGARDUS, Judge

11 **WE CONCUR:**

12   
13 JACQUELINE R. MEDINA, Judge

14   
15 MEGAN P. DUFFY, Judge