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

2 Opinion Number: _____

Court of Appeals of New Mexico
Filed 12/23/2024 9:50 AM

3 Filing Date: December 23, 2024


Ramon J. Maestas
Chief Clerk

4 **No. A-1-CA-41524**

5 **STATE OF NEW MEXICO,**

6 Plaintiff-Appellee,

7 v.

8 **BRIANA RUIZ,**

9 Defendant-Appellant.

10 **APPEAL FROM THE DISTRICT COURT OF LEA COUNTY**

11 **Mark Sánchez, District Court Judge**

12 Raúl Torrez, Attorney General

13 Santa Fe, NM

14 Meryl E. Francolini, Assistant Attorney General

15 Albuquerque, NM

16 for Appellee

17 Bennett J. Baur, Chief Public Defender

18 Mary Barket, Assistant Appellate Defender

19 Santa Fe, NM

20 for Appellant

1 **OPINION**

2 **BOGARDUS, Judge.**

3 {1} Defendant Briana Ruiz appeals the decision made by the district court denying
4 her motion challenging the preliminary hearing proceedings and the magistrate
5 court’s finding of probable cause felony charges because the district court lacked
6 jurisdiction. Defendant contends that the district court has jurisdiction to consider
7 her motion and erred in its determination not to review the merits of that motion.
8 Defendant requests a reversal of the district court’s ruling and a remand for the
9 consideration of her motion. We affirm.

10 **BACKGROUND**

11 {2} On March 6, 2023, the State filed a criminal complaint against Defendant in
12 the Lea County Magistrate Court for aggravated battery and possession of a firearm
13 by a felon. The complaint was written by Hobbs Police Department Detective Justin
14 Santos (Detective Santos) following an altercation that occurred between Defendant
15 and Starla Franco. Detective Santos compiled his complaint with the information he
16 obtained through separate interviews of Starla, Cyntell Pringler (Starla’s boyfriend),
17 and Lisa Franco (Starla’s sister), all of whom were present at the time of the
18 altercation. According to the complaint, Starla, Cyntell, Lisa and Defendant were at
19 Starla’s apartment when Defendant decided to leave to put things in her car. Lisa left
20 the apartment with Defendant, and the two began to argue when Defendant became

1 frustrated because she could not open her car. Because of the argument, Starla left
2 her apartment and intervened, putting herself between Lisa and Defendant, and
3 became the “primary aggressor.” Lisa asserted that Starla punched Defendant in the
4 face several times. Shortly after Defendant was punched, Starla was shot near her
5 hip. Neither Starla nor Lisa told Detective Santos that they saw where the shot came
6 from. Cyntell told Detective Santos that Defendant shot Starla with a gun that
7 Defendant grabbed from her car when she was able to open it. After Starla was shot,
8 Cyntell claims that he tried to stop Defendant from driving away but could not.
9 Officers Jorge Colin and Edgar Soto arrived on the scene after responding to a call
10 regarding a female with a gunshot wound. When they arrived, the Officers found
11 Starla on the ground, and Officer Colin provided aid until EMS arrived and took
12 Starla to the hospital.

13 {3} The criminal complaint described Defendant as “heavy set, short, black hair,
14 and works at the Allsup’s” near Hobbs High School. The complaint also stated that
15 Defendant drove a “white new model sedan,” likely a Nissan Altima or Chevy
16 Impala. Detective Santos noted in the complaint that, approximately six months
17 before, he investigated an incident with a woman named “Briana Ruiz” matching
18 the description of Defendant given to him by the witnesses. He identified Defendant
19 based on this information. A warrant was issued for Defendant’s arrest and she was
20 arrested on June 1, 2023.

1 {4} An initial preliminary hearing was set for June 15, 2023, however, Defendant
2 filed a stipulated motion to extend time, which was granted, and the hearing was
3 reset. The preliminary hearing was held on July 20, 2023, and the magistrate court
4 bound Defendant over on the charges for aggravated battery (deadly weapon) and
5 felon in possession of a firearm. At this hearing, the State introduced testimony from
6 Detective Santos as well as the two officers (Officer Soto and Officer Colin). On
7 July 31, 2023, a criminal information was filed with the district court pertaining to
8 those charges and Defendant was arraigned in the district court on August 14, 2023.
9 On October 24, 2023, Defendant filed a motion challenging the probable cause
10 finding at the hearing, claiming that at both preliminary hearings the detective and
11 two officers appeared, but the eyewitnesses failed to appear.¹ Defendant argued in
12 her motion challenging the probable cause determination that, without the testimony
13 of Starla or any of the eyewitnesses, the testimony of law enforcement engaged in

¹We note that although the Rules of Evidence apply to preliminary hearings, our Supreme Court found that, consistent with the Federal Sixth Amendment Right of Confrontation under the United States Constitution, and Article II, Section 14 of the New Mexico Constitution, these rules do not apply to probable cause determinations in preliminary examinations stating, “There is nothing in the structure or text of the New Mexico Constitution that would make it any more reasonable to apply the full panoply of constitutional trial rights at preliminary examinations conducted to determine probable cause to prosecute than it would be to do so at grand jury determinations of probable cause to prosecute or pretrial determinations of probable cause for a search or arrest.” *State v. Lopez*, 2013-NMSC-047, ¶ 19, 314 P.3d 236.

1 the investigation was insufficient to support a finding of probable cause that
2 Defendant was the one who shot Starla.

3 {5} On November 8, 2023, the district court denied Defendant’s motion,
4 concluding that it did not “have the jurisdiction to reopen a preliminary examination
5 conducted in the Magistrate Court.” The district court granted the Defendant’s
6 motion for order certifying the case for interlocutory appeal on December 1, 2023,
7 and this Court granted Defendant’s application for interlocutory appeal.

8 **DISCUSSION**

9 {6} Defendant contends that the district court erred in concluding that it had no
10 jurisdiction over defense counsel’s motion and also erred in denying the motion on
11 jurisdictional grounds without considering its merits for three reasons: (1) “the
12 district court has inherent authority to review the magistrate court’s probable cause
13 determination since its own jurisdiction depends on the propriety of the lower court’s
14 ruling”; (2) the district court “has constitutional and statutory authority over
15 magistrate courts and the ability to review . . . the magistrate court de novo”; and (3)
16 case law supports that “district courts have long exercised this type of authority in
17 the preliminary hearing and related contexts.”

18 {7} The State argues that the district court correctly concluded that it lacked the
19 authority to review the evidence that supports the finding of probable cause by the
20 magistrate court. The State cites to *State v. Ayon*, 2023-NMSC-025, 538 P.3d 66, a

1 case recently decided by our Supreme Court, drawing a parallel between *Ayon*'s
2 finding that a district court is without authority to exclude illegally obtained evidence
3 at a preliminary hearing, and the facts presented here. *See id.* ¶¶ 15-18. We conclude
4 that the district court has no authority to review the magistrate court's probable cause
5 determination, as it would not have the authority to do so by way of grand jury
6 indictment.

7 **I. Preliminary Examination Hearings are Congruent to Grand Jury**
8 **Proceedings**

9 {8} In *Ayon*, our Supreme Court held that because of their fundamental
10 similarities, the rules that govern grand jury proceedings and preliminary hearings
11 are similar. *See id.* ¶ 15 (stating that the rules regarding the exclusion of illegally
12 obtained evidence are congruent for grand jury proceedings and preliminary
13 hearings). Within the context of the case before us and applying the framework
14 established by *Ayon*, we use the statutes that govern grand jury proceedings to
15 evaluate Defendant's claim that the district court had the authority to review the
16 sufficiency of the evidence admitted at her preliminary hearing before a magistrate
17 judge.

18 **II. The Constitutional and Statutory Consistency of Preliminary Hearings**
19 **and Grand Jury Proceedings**

20 {9} "The proper interpretation of our Rules of Criminal Procedure is a question of
21 law that we review de novo." *Allen v. LeMaster*, 2012-NMSC-001, ¶ 11, 267 P.3d

1 806. The rights of the accused are clear under the New Mexico Constitution, which
2 states that “[n]o person shall be held to answer for a capital, felonious or infamous
3 crime unless on a presentment or indictment of a grand jury or information filed by
4 a district attorney or attorney general or their deputies.” N.M. Const. art. II, § 14.
5 Likewise, it also states that “[n]o person shall be so held on information without
6 having had a preliminary examination before an examining magistrate, or having
7 waived such preliminary examination.” *Id.* As a result, a defendant may not be tried
8 for a serious criminal offense absent a determination of probable cause by a grand
9 jury or a judge at a preliminary examination. *See State v. Lopez*, 2013-NMSC-047,
10 ¶ 2, 314 P.3d 236 (clarifying that the right of confrontation guaranteed by both the
11 Sixth Amendment to the United States Constitution and Article II, Section 14 of the
12 New Mexico Constitution does not extend to preliminary examinations conducted
13 to determine probable cause to prosecute).

14 **III. Standards for Reviewing Challenges to Grand Jury Proceedings**

15 {10} “Challenges arising from grand jury proceedings ordinarily fall into two
16 categories: (1) challenges to the quality or sufficiency of the evidence before the
17 grand jury and (2) structural challenges involving the manner in which the grand
18 jury process has been conducted.” *Herrera v. Sanchez*, 2014-NMSC-018, ¶ 12, 328
19 P.3d 1176. “A target’s ability to challenge the sufficiency of the evidence before the
20 grand jury generally is limited to the review permitted by statute.” *Id.* ¶ 13.

1 {11} NMSA 1978, Section 31-6-11(A) (2003) provides the following:

2 Evidence before the grand jury upon which it may find an
3 indictment is that which is lawful, competent and relevant, including
4 the oral testimony of witnesses under oath and any documentary or
5 other physical evidence exhibited to the jurors. The Rules of Evidence
6 shall not apply to a grand jury proceeding. The sufficiency of the
7 evidence upon which an indictment is returned shall not be subject to
8 review absent a showing of bad faith on the part of the prosecuting
9 attorney assisting the grand jury.

10 {12} Section 31-6-11(A) provides the clearest understanding that the district court
11 lacks the authority to review the sufficiency of the evidence with which an
12 indictment is returned by a grand jury without a showing of bad faith by the
13 prosecutor. We find no specific statutory authority that addresses whether the district
14 court can review the sufficiency of the evidence used to find probable cause in a
15 preliminary examination. Consequently then, we follow the framework of *Ayon* and
16 analyze the facts of this case and the relevant law to be consistent with statutory
17 authority governing grand jury proceedings.

18 **IV. Review of the Sufficiency of the Evidence for a Probable Cause**
19 **Determination**

20 {13} “The sufficiency of the evidence presented to a grand jury to establish
21 probable cause for an indictment is not subject to judicial review.” *State v. Elam*,
22 1974-NMCA-075, ¶ 14, 86 N.M. 595, 526 P.2d 189. In *Ayon*, our Supreme Court
23 observed that grand jury proceedings and preliminary hearings share a common
24 primary purpose of determining probable cause. *See* 2023-NMSC-025, ¶ 17

1 (recognizing that grand jury proceedings and preliminary hearings both “provide a
2 neutral evaluation of whether the state has met its burden of demonstrating probable
3 cause to prosecute a serious crime”). At a grand jury proceeding, it is a panel of
4 jurors who decide whether the state has demonstrated probable cause. NMSA 1978,
5 § 31-6-1 (1983). The same determination is made at a preliminary hearing, except it
6 is the judge who concludes whether the state has demonstrated probable cause. Rule
7 5-302(D) NMRA.

8 {14} Although *Ayon* differs factually from the case at hand, we find the rationale
9 relied on by our Supreme Court instructive in determining whether a district court
10 has the authority to review a probable cause determination made at a preliminary
11 hearing. In *Ayon*, the Court addressed whether a district court had the authority, at a
12 preliminary hearing, to determine whether evidence was illegally obtained. 2023-
13 NMSC-025, ¶ 5. The Court recognized the inherent similarities between grand jury
14 indictments and preliminary hearings and ultimately concluded that just as a district
15 court cannot review the admissibility of the evidence presented to a grand jury, a
16 district court cannot review the admissibility of the evidence presented at a
17 preliminary hearing. *Id.* ¶¶ 16-18. In so concluding, the Court reasoned that
18 “fundamental similarities between grand jury proceedings and preliminary hearings
19 favor our conclusion that their rules on the exclusion of illegally obtained evidence
20 should be congruent.” *Id.* ¶ 15. This common purpose supports our view that district

1 courts lack authority to review probable cause determinations made in either type of
2 proceeding, whether by a grand jury or a magistrate judge. *See State v. Martinez*,
3 2018-NMSC-031, ¶ 39, 420 P.3d 568 (holding that a district court lacked authority
4 to review the admissibility of evidence considered by the grand jury).

5 {15} Based on our review of *Ayon* and considering the common primary purpose
6 that grand jury proceedings and preliminary hearings share regarding probable cause
7 determinations, we conclude that the district court lacked the authority to review the
8 magistrate court’s probable cause determination in this case. In so concluding, we
9 also recognize the absence of any statutory authority expressly granting district
10 courts the ability to review probable cause determinations made by magistrate
11 courts. Our conclusion aligns with the well-established principle in grand jury
12 proceedings barring district courts from reviewing probable cause determinations,
13 absent a finding of bad faith. *See* § 31-6-11(A).²

14 {16} Defendant does not develop an argument on appeal concerning the sufficiency
15 of the evidence to support the magistrate court’s probable cause determination.
16 Therefore, we need not address that issue. *See State v. Guerra*, 2012-NMSC-014,

²Because Defendant does not argue that the prosecution in this case acted in bad faith, we need not address whether such a claim would be reviewable on direct appeal to the district court. *See Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (“It is of no benefit either to the parties or to future litigants for [an appellate court] to promulgate case law based on [its] own speculation rather than the parties’ carefully considered arguments.”).

1 ¶ 21, 278 P.3d 1031 (recognizing that appellate courts are under no obligation review
2 unclear or undeveloped arguments).

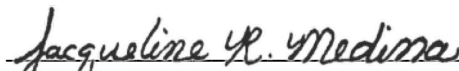
3 **CONCLUSION**

4 {17} For the foregoing reasons, we affirm.

5 {18} **IT IS SO ORDERED.**

6 
7 **KRISTINA BOGARDUS, Judge**

8 **WE CONCUR:**

9 
10 **JACQUELINE R. MEDINA, Judge**

11 
12 **JANE B. YOHALEM, Judge**