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

Court of Appeals of New Mexico

Filed 2/16/2026 7:13 AM

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-42399

5 **CHARLES PAUL MURPHY,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY**

8 **R. David Pederson, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Van Snow, Deputy Solicitor General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 Kathleen T. Baldrige, Assistant Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **MEMORANDUM OPINION**

19 **MEDINA, Chief Judge.**

20 {1} This matter was submitted to the Court on Defendant's brief in chief pursuant

21 to the Administrative Order for Appeals in Criminal Cases from the Second,

22 Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal*

23 *Appeals*, No. 2022-002, effective November 1, 2022. Following consideration of the

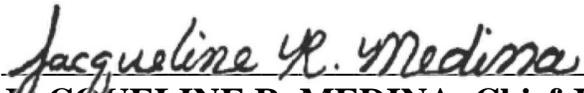
1 brief in chief, the Court assigned this matter to Track 2 for additional briefing. Now
2 having considered the brief in chief and answer brief, we reverse and remand for the
3 entry of an amended judgment and sentence.

4 {2} Following entry of a plea and disposition agreement, Defendant solely appeals
5 the imposition of his sentence. Defendant argues that homicide caused by driving
6 while intoxicated under NMSA 1978, Section 66-8-101 (2016) is not a serious
7 violent offense pursuant to the Earned Meritorious Deductions Act (EMDA), NMSA
8 1978, § 33-2-34 (2015),¹ and therefore the district court's designation of his
9 conviction as such must be reversed. [BIC 3-10; RP 124-25] The State responded in
10 its answer brief and agrees with Defendant's analysis, conceding that the district
11 court erred in designating Defendant's conviction for second-degree homicide by
12 vehicle as a serious violent offense. [AB 1-2] While this Court is not bound by such
13 a concession, having reviewed the facts and in accordance with *State v. Montano*,
14 2024-NMSC-019, 557 P.3d 86, we agree with the parties that the district court erred
15 in designating Defendant's conviction for second-degree homicide by vehicle as a
16 serious violence offense. Accordingly, we reverse the designation of Defendant's

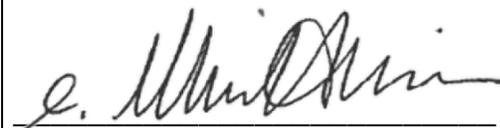
¹We note that the Legislature has amended the EMDA. *See* NMSA 1978, § 33-2-34 (2025). This amendment follows the Supreme Court decision in *State v. Montano*, 2024-NMSC-019, 557 P.3d 86. The parties do not disagree that the relevant version of the statute applicable to Defendant's case was the 2015 version.

1 conviction for homicide by driving while intoxicated as a serious violent offense and
2 remand to the district court for the entry of an amended judgment and sentence.

3 {3} **IT IS SO ORDERED.**

4 
5 **JACQUELINE R. MEDINA, Chief Judge**

6 **WE CONCUR:**

7 
8 **J. MILES HANISEE, Judge**

9 
10 **ZACHARY A. IVES, Judge**