

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Court of Appeals of New Mexico
Filed 10/13/2026 11:26 AM

Plaintiff-Appellee,



Mark Reynolds

v.

No. A-1-CA-42033

DOMINICK QUINTANA,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF SAN MIGUEL COUNTY

Abigail P. Aragon, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Charles Gutierrez, Senior Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Joelle N. Gonzales, Assistant Appellate Defender

Santa Fe, NM

for Appellant

MEMORANDUM OPINION

BACA, Judge.

{1} This matter was submitted to the Court on the brief in chief in the above-entitled cause, pursuant to this Court's notice of assignment to the general calendar with modified briefing. Following consideration of the brief in chief, the Court assigned this matter to Track 2 for additional briefing, as defined in the

1 Administrative Order in *In re Pilot Project for Criminal Appeals*, No. 2022-002.

2 Now having considered the brief in chief, answer brief, and reply brief, we reverse
3 and remand for resentencing.

4 {2} Following the revocation of his probation, Defendant solely appeals the
5 district court's sentencing order. In the district court's order revoking probation and
6 imposing sentence, the district court stated that it was "imposing the remaining
7 balance of [Defendant's] sentence[,] " which would be served "incarcerated with the
8 New Mexico Department of Corrections." [RP 151] The district court further
9 ordered that after Defendant served the remainder of his sentence in prison, he was
10 to serve one year of parole and five years of probation. [RP 151]

11 {3} Defendant argues that this sentence is illegal because the district court did not
12 have statutory authority to impose probation after it ordered the remainder of
13 Defendant's sentence to be served in prison. [BIC 2-4] "A trial court's power to
14 sentence is derived exclusively from statute." *State v. Martinez*, 1998-NMSC-023,
15 ¶ 12, 126 N.M. 39, 966 P.2d 747. We agree with Defendant's argument that a district
16 court may order probation only if it defers or suspends, in whole or in part, a sentence
17 of imprisonment:

18 When a person has been convicted of a crime for which a sentence of
19 imprisonment is authorized and when the magistrate, metropolitan or
20 district court *has deferred or suspended sentence*, it shall order the
21 defendant to be placed on probation for all or some portion of the period
22 of deferment or suspension if the defendant is in need of supervision,

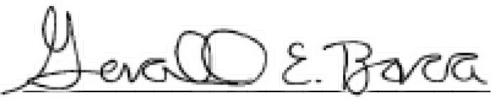
1 guidance or direction that is feasible for the corrections department to
2 furnish.

3 *See* NMSA 1978, § 31-20-5(A) (2003, amended 2025) (emphasis added).

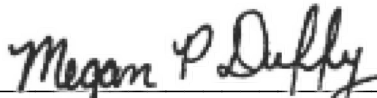
4 Accordingly, here, where the district court ordered Defendant to serve the balance
5 of his sentence in prison, the district court lacked the authority to additionally impose
6 probation following Defendant's release from incarceration.

7 {4} We note that the State responded in its answer brief and agrees with
8 Defendant's analysis, conceding that the district court erred and that because the
9 district court imposed the balance of Defendant's sentence in prison, the district
10 court had no authority to impose a new term of probation. [AB 3] While this Court
11 is not bound by such a concession, having reviewed the facts and in accordance with
12 the law, we agree with the parties that the district court erred in imposing a term of
13 probation upon Defendant. Accordingly, we reverse and remand for resentencing in
14 accordance with the law.

15 {5} **IT IS SO ORDERED.**

16 
17 **GERALD E. BACA, Judge**

18 **WE CONCUR:**

19 
20 **MEGAN P. DUFFY, Judge**

21 
22 **SHAMMARA H. HENDERSON, Judge**