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8TH JUDICIAL DIST. COURT
COLFAX COUNTY, NM ON

2016 MAY 25 PM 4:08

BERNARD P. STRUCK
CLERK OF THE
DISTRICT COURT

STATE OF NEW MEXICO
COUNTY OF COLFAX
EIGHTH JUDICIAL DISTRICT
PRESIDING JUDGE: Emilio J. Chavez

NO. D-809-CR-201400150

STATE OF NEW MEXICO,

Plaintiff,

vs.

Anthony Garcia
DOB: 11/09/1993
SSN: 648-01-4570
STN: 0401000140313

Defendant.

**JUDGMENT AND SENTENCE
AND ORDER OF COMMITMENT**

THIS MATTER came before the court for sentencing on May 24, 2016. The State of New Mexico was represented by Donald Gallegos, Eighth Judicial District Attorney, and Tim Scheiderer, Deputy District Attorney. The Defendant appeared in person with his attorney Stephen D. Aarons.

On March 10, 2016, the jury found the Defendant **GUILTY** of the following charges that occurred on or about November 22, 2014:

COUNT 1: Second Degree Murder, contrary to NMSA 1978, §30-2-1(B), a second degree felony resulting in the death of a human being.

COUNT 2: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony.

COUNT 4: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony.

COUNT 5: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony.

COUNT 6: Shooting at Dwelling or Occupied Building (No Great Bodily Harm), contrary to NMSA 1978, §30-3-8(A), a fourth degree felony.

The jury **ACQUITTED** the Defendant of **COUNT 3:** Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony.

ORDER AND SENTENCE OF THE COURT:

1. The Defendant is convicted and stands guilty of the crime as charged in Count 1 of: Second Degree Murder, contrary to NMSA 1978, §30-2-1(B), a second degree felony resulting in the death of a human being. The Defendant is hereby committed to the custody of the New Mexico Department of Corrections for a period of fifteen (15) years, followed by a two (2) year period of parole. Also, in relation to Count 1, the jury made a special finding that a firearm was used in the commission of the crime; the Defendant's sentence shall be enhanced pursuant to NMSA 1978, §31-18-16, for a period of one (1) year in the New Mexico Department of Corrections, for a total period of incarceration of sixteen (16) years, followed by a two (2) year period of parole. Furthermore, in relation to Count 1, the court found the offense to be a serious violent felony pursuant to NMSA 1978, §33-2-34(L)(4)(b).
2. The Defendant is convicted and stands guilty of the crime as charged in Count 2 of: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony. The Defendant is hereby committed to the custody of the New Mexico Department of Corrections for a period of eighteen (18) months, followed by a one (1) year period of parole. Also, in relation to Count 2, the jury made a special finding that a firearm was used in the commission of the crime; the Defendant's sentence shall be enhanced pursuant to NMSA 1978, §31-18-16,

for a period of one (1) year in the New Mexico Department of Corrections, for a total period of incarceration of two and one-half (2 ½) years, followed by a one (1) period of parole. Furthermore, in relation to Count 2, the court found the offense to be a serious violent felony pursuant to NMSA 1978, §33-2-34(L)(4)(b).

3. The Defendant is convicted and stands guilty of the crime as charged in Count 4 of: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony. The Defendant is hereby committed to the custody of the New Mexico Department of Corrections for a period of eighteen (18) months, followed by a one (1) year period of parole. Also, in relation to Count 4, the jury made a special finding that a firearm was used in the commission of the crime; the Defendant's sentence shall be enhanced pursuant to NMSA 1978, §31-18-16, for a period of one (1) year in the New Mexico Department of Corrections, for a total period of incarceration of two and one-half (2 ½) years, followed by a one (1) period of parole. Furthermore, in relation to Count 4, the court found the offense to be a serious violent felony pursuant to NMSA 1978, §33-2-34(L)(4)(b).
4. The Defendant is convicted and stands guilty of the crime as charged in Count 5 of: Aggravated Assault (Deadly Weapon), contrary to NMSA 1978, §30-3-2(A), a fourth degree felony. The Defendant is hereby committed to the custody of the New Mexico Department of Corrections for a period of eighteen (18) months, followed by a one (1) year period of parole. Also in relation to Count 5, the jury made a special finding that a firearm was used in the commission of the crime; the Defendant's sentence shall be enhanced pursuant to NMSA 1978, §31-18-16, for a period of one (1) year in the New Mexico Department of Corrections, for a total period of incarceration of two and one-half (2 ½) years, followed by a one (1) period of parole.

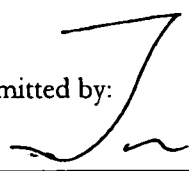
Furthermore, in relation to Count 5, the court found the offense to be a serious violent felony pursuant to NMSA 1978, §33-2-34(L)(4)(b).

5. The Defendant is convicted and stands guilty of the crime as charged in Count 6 of: Shooting at Dwelling or Occupied Building (No Great Bodily Harm), contrary to NMSA 1978, §30-3-8(A), a fourth degree felony. The Defendant is hereby committed to the custody of the New Mexico Department of Corrections for a period of eighteen (18) months, followed by a one (1) year period of parole. Also, in relation to Count 6, the court found the offense to be a serious violent felony pursuant to NMSA 1978, §33-2-34(L)(4)(b).
6. It is further ordered that Counts 1, 2 and 4 shall run **CONSECUTIVELY** to one another for a period of incarceration of twenty-one (21) years and Counts 5 and 6 shall run **CONCURRENTLY** to one another and **CONCURRENT** to Counts 1, 2 and 4 **for a TOTAL period of incarceration of twenty-one (21) years in the New Mexico Department of Corrections, followed by a (2) year period of parole.**
7. The Defendant shall submit a DNA sample and pay the \$100 registry fee as required by statute.
8. The Defendant shall pay a \$5.00 fee on each count as required by statute NMSA 1978, §31-12-11, for a total of \$20.00.
9. The Defendant shall pay \$75.00 for conviction of a felony to the Crime Victims Reparation Fund pursuant to NMSA 1978, §31-12-13.
10. The Defendant shall receive pre-sentence confinement credit from November 22, 2014 to March 24, 2016, in the amount of 550 days, and for any days thereafter as he awaits transport to the New Mexico Department of Corrections.
11. Any bond monies posted are hereby released to the person posting same.

12. The Sheriff of Colfax County or his designee shall immediately transport the Defendant to the New Mexico Department of Corrections, Reception and Diagnostic Center, Central New Mexico Correctional Facility, P.O. Drawer 1328, 1525 Morris Road, Los Lunas, New Mexico 87031-1328 (505) 865-1622, and deliver custody of said defendant to the appropriate authorities forthwith.
13. The Defendant is advised by the Court of his right to appeal the judgment and order of this court. If the Defendant is unable to pay the costs of an appeal, the Defendant has a right to proceed with an appeal at the State's expense and at no cost to the Defendant. Further, if any appeal is to be taken, it must be filed within thirty (30) days of the date of the filing of this Judgment and Sentence and Order of Commitment.


Emilio J Chavez
DISTRICT COURT JUDGE

Submitted by:


Tim Scheiderer
Deputy District Attorney

Approved by:

ELECTRONICALLY APPROVED 5/25/14
Stephen D. Aarons
Attorney for the Defendant

/TRS 09-CR-2014-0255