

FILED
DISTRICT COURT OF
LINCOLN COUNTY, N.M.
15 JUN 30 PM 2:17

STATE OF NEW MEXICO
COUNTY OF LINCOLN
TWELFTH JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

v.

SANTIAGO VICTOR CARRILLO,

CR-13-260/CR-12-139

Defendant,

And

NEW MEXICO LAW OFFICE OF THE PUBLIC DEFENDER,

Real party in interest.

**ORDER GRANTING STAY OF PROCEEDINGS AND RELEASING
DEFENDANT FROM CUSTODY**

THIS MATTER coming before the Court on the Defendant's Motion to Dismiss and/or in the alternative for a Stay of Proceedings and Release of the Defendant, the Defendant represented by Gary C. Mitchell of Gary C. Mitchell, P.C., the State represented by its Deputy District Attorney Matthew R. Wade and the New Mexico Law Office of the Public Defender represented by Karl Erich Martell and Robert Mead, the Court having read all the motions, answers and replies and memoranda in support thereof, having listened to testimony of several

witnesses, having received numerous exhibits and having entered certain interim orders,

THE COURT FINDS:

1. Defendant is indigent.
2. Defendant is entitled to effective assistance of counsel at the expense of the State. *U.S.C.A. Const. Amends. 6; Gideon v Wainwright*, 372 U.S. 335, 83 S. Ct. 792 (1963); *NM Constitution Art. 2, Sec 14; State v Brown*, 139 N.M. 466, 134 P3d 753, 2006-NMSC-023 (2006); and *State v Young*, 143 N.M. 1, 172 P.3d 138 (2007). The State of New Mexico has failed to pay an adequate sum of money to defense counsel in order that defense counsel may provide effective assistance of counsel without using defense counsel's own monies.
3. The Court issued certain interim orders and a final order directing the State pay a minimum of \$85 per hour plus GRT for attorney time and \$35 per hour plus GRT for staff time and to pay the costs of copying, postage, collect calls and transportation.
4. New Mexico Law Office of the Public Defender (LOPD) indicated to the Court and continues to indicate to the Court it cannot comply with the Court's Orders due to lacking of funding from the State of New Mexico.

IT IS THEREFORE THE ORDER OF THE COURT:

The Court denies the motion to dismiss but in the alternative, these matters are hereby stayed from further prosecution unless and until the State of New Mexico provides the funding as ordered by the Court and LOPD pays unto the defense attorney for representation of said defendant the amounts ordered by the Court.

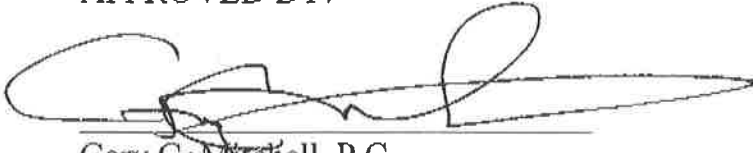
IT IS FURTHER ORDERED the defendant is released from custody in these matters on the following conditions:

Defendant shall obey all laws; remain in the Twelfth Judicial District, stay in weekly contact with his attorney, not have any contact with the alleged victim and or any witness in these matters, including his wife, not have any computers or electronic devices from which and to which visual images may be transmitted, not have any contact with children under the age of 18, consume no alcohol and or drugs without a medical doctors prescription.

/s/ KAREN L. PARSONS

DISTRICT JUDGE

APPROVED BY:



Gary C. Mitchell, P.C.
Attorney for Defendants
P.O. Box 2460
Ruidoso, NM 88355
575-257-3070/575-257-3171 (Fax)

Approved via email 6/30/15 @ 9:29 a.m.

Matthew R. Wade
Deputy District Attorney
P.O. Box 893
Carrizozo, NM 88301
575-648-2383/575-648-2611 (Fax)

Approved as to form via email 6/30/15 @ 7:53 am

Karl Erich Martell
Special Assistant Attorney General
LOPD General Counsel
505 Marquette Ave NW, Ste. 120
Albuquerque, NM 87102
505-835-2215/505-841-5177 (Fax)

Certificate of Facsimile Transmission

I hereby certify that I have faxed a true and correct copy of the foregoing document to the Court Clerk for filing from (575) 257-3171 to (575) 648-2581, on this 30th day of June, 2015., at 10:21 AM, and that the transmission was reported okay (OK).

Print Name: Tricia A. Tully

Signature: 

Title: Legal Assistant

cc: counsel via fax #(575) 648-2611
Karl Erich Martell via email k.erich.martell@lopdm.us
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