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Supreme Court affirms Albuquerque man's first-degree murder conviction

SANTA FE – The state Supreme Court today upheld the first-degree murder conviction of Yoan Pena Santiesteban for fatally shooting an Albuquerque man leaving his home for work in 2017, but the justices concluded there were errors in the defendant's sentencing.

Santiesteban was sentenced to life in prison plus 68½ years for the murder of Matthew Severinghaus, robbery and other crimes involving his death as well as two other killings that occurred separately days earlier.

In a unanimous decision, the state's highest court vacated Santiesteban's 15-year sentence for shooting at a motor vehicle and a one-year enhancement added to his murder sentence because a firearm was used in the crime.

The Court concluded it was a double jeopardy violation to punish the defendant for the murder and for shooting at Severinghaus' car because "the conduct underlying both crimes was unitary." The victim was found lying in his driveway, his wallet was missing and the driver's side window on his car was shattered. Constitutional double jeopardy protections prohibit multiple punishments for a single offense.

In vacating the additional year on the defendant's life imprisonment sentence, the Court explained that state law allows the sentencing enhancement only when a defendant uses a firearm in committing a noncapital felony. First-degree murder is statutorily considered a capital felony.

"Here, Defendant used a firearm in the commission of a *capital* felony," the Court wrote in an opinion by Justice Barbara K. Vigil. "It was therefore incorrect for the district court to attach a firearm enhancement to Defendant's sentence for a capital crime."

State prosecutors acknowledged the sentencing errors by the district court in their written arguments submitted in Santiesteban's appeal, and agreed with the defense that the firearm enhancement and the sentence for shooting a motor vehicle should be set aside.

The Court rejected Santiesteban's challenge to his murder conviction. Among his arguments, he contended that the trial court should not have admitted evidence about a polygraph test taken by his girlfriend, Gloria Chavez, to bolster her testimony against him. She was with Santiesteban when Severinghaus was killed. The defense contended that polygraph evidence is unreliable and it should have been excluded in Santiesteban's case. The defense also urged the Supreme Court to prohibit polygraph evidence from being used against defendants in future New Mexico criminal cases.

"Without further analysis and public comment and consideration of the issue, we refrain from prematurely revisiting the rule allowing the admissibility of polygraph evidence," the Court wrote.

The Court also rejected the defendant's argument that a mistrial should have been granted because of certain testimony by Chavez. The defense contended that she made an inadmissible statement referencing other murder charges pending against Santiesteban at the time of his trial. According to the Court, it was unclear whether her statement referred to the other murders.

"Regardless, considering the statement within the larger content of the case leads us to conclude that the three words, 'lives were taken [sic],' did not have much influence on the jury," the Court wrote. "The abundance of evidence against Defendant including three eyewitnesses suggests that even if Ms. Chavez's statement had some impact, the jury likely would have reached the same conclusion irrespective of her comment."

A jury convicted Santiesteban in January 2019 of first-degree murder and other charges in the death of Severinghaus, including shooting at a motor vehicle, armed robbery and aggravated burglary. He later pleaded guilty to two counts of second-degree murder for the deaths of two other people in separate shootings in May 2017.

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To read the decision in *State v. Santiesteban*, No. S-1-SC-37856, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/490942/index.do>