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FOR IMMEDIATE RELEASE

March 19, 2020

Contact: Barry Massey, public information officer

bmassey@nmcourts.gov

505-827-4805

505-470-3436

Supreme Court rules that police question to suspect in drug case did not violate defendant's constitutional rights

SANTA FE – The state Supreme Court today ruled that an Albuquerque man's incriminating statement to police and seized methamphetamine were properly allowed as evidence during a trial that led to his conviction for drug possession.

The Court vacated a ruling by the state Court of Appeals in 2018 that reversed Ronald Widmer's felony conviction and ordered a new trial. The justices sent the case back to the Court of Appeals for consideration of other legal issues raised by Widmer in challenging his conviction, including whether his arrest was lawful.

The decision by the state's highest court upheld a district judge's determination that a police officer's question to Widmer, before being advised of his constitutional rights, did not violate the defendant's Fifth Amendment protection against self-incrimination.

Police detained Widmer in a retail store's parking lot after discovering he had outstanding felony warrants for drug trafficking. Before Widmer was given a *Miranda* warning about his constitutional rights, an officer donned protective gloves for a pat-down search and asked Widmer, "Is there anything on your person that I should know about?" Widmer replied, "I have meth." Police found he was carrying a pill bottle with methamphetamine.

In an opinion written by Justice David K. Thomson, the Court concluded that the officer's question was permissible under the circumstances of the case because it fell within a public safety exception to the requirement for advising criminal suspects of their constitutional rights. That exception, under a 1984 U.S. Supreme Court decision, *New York v. Quarles*, allows police to ask questions to protect public and officer safety before giving a *Miranda* warning to someone in custody.

The Court's majority concluded that the public safety exception applied because the officer's question "was not asked solely to elicit incriminating testimony." The majority further reasoned

that the question was permissible because Widmer potentially had “objects on his person that threatened public safety” and that outweighed the requirement for a *Miranda* warning of his constitutional rights.

Chief Justice Judith K. Nakamura concurred in the decision to reverse the Court of Appeals and agreed that the officer’s question was permissible. However, the Chief Justice wrote a separate opinion partly dissenting from the majority’s interpretation of the public safety exception and its view that the officer’s questioning constituted “interrogation.”

The officer’s “question was either asked for his safety or it was asked to elicit an incriminating response from Widmer. It cannot be for both,” Chief Justice Nakamura wrote.

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To read the decision in *State v. Widmer*, No. S-1-SC-36966, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/465969/index.do>