

Administrative Office of the Courts

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STATE SUPREME COURT CLARIFIES PRETRIAL DETENTION AUTHORITY IN FORMER CAPITAL PUNISHMENT CASES

SANTA FE – The New Mexico Supreme Court issued today a precedential opinion clarifying the constitutional authority of district courts to deny pretrial release to dangerous defendants charged with what were capital punishment offenses before the 2009 legislative repeal of the death penalty in New Mexico.

In *State v. Muhammad Ameer*, the Court reviewed a district court ruling on a motion by the Bernalillo District Attorney to deny pretrial release to Muhammad Ameer, who had been indicted for first degree murder, an offense previously punishable by the death penalty but which now carries a potential punishment of life without parole. Ameer was alleged to have fatally stabbed and robbed Aaron Sieben at an Albuquerque gas station.

The district attorney had asked the court to detain Ameer under the new constitutional authority to deny pretrial release to any felony defendant if the prosecution shows by clear and convincing evidence that no conditions of release would adequately protect the safety of others. That broader evidence-based exception to the right to bail was created by a constitutional amendment proposed by the Legislature and approved by New Mexico voters in the 2016 general election. Instead, the district court ordered detention based on a 1912 constitutional provision providing a categorical exception to the right to bail in “capital offenses.”

The Supreme Court reviewed the history of the capital offense exception in New Mexico law and in other states and unanimously held, as have all other jurisdictions addressing the same issue, that a capital offense is a crime “for which a statute authorizes imposition of the death penalty.”

“This Court has never explicitly or implicitly held that nonbailable capital offenses in Article II, Section 13 include crimes not statutorily punishable by capital punishment. To permit any branch of government to redefine constitutional terms would violate the exclusive power of the people to amend the Constitution,” the Court said in an opinion written by Justice Charles W. Daniels. “We have no authority to preclude the Legislature’s use of the term “capital felony” or any other form of words in classifying crimes for nonconstitutional purposes, but no branch of government has the lawful authority to transform the intended meaning of constitutional terms.”

Although pretrial detention in life imprisonment cases cannot be based on the capital offense exception, the Supreme Court affirmed its earlier ruling sending the case back to the district court to determine whether the defendant should have been held under the new detention authority for dangerous felony defendants, as the district attorney's office had requested in its detention motion. The Court initially issued a ruling after hearing oral arguments in the case.

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To read the opinion in *State v. Ameer*, No. S-1-SC-36395 slip op. (N.M. S. Ct. April 23, 2018) , please visit the New Mexico Compilation Commission's website using the following link:

<http://www.nmcompcomm.us/nmcases/nmsc/slips/SC36,395.pdf>

To view amended Rule 5-302A(F) NMRA, please visit the New Mexico Compilation Commission's website using the following link:

<http://www.nmcompcomm.us/nmrules/nmruleset.aspx?rs=5>