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New Mexico Supreme Court Issues Opinion Allowing for Admissibility of Sexual Assault Victim's Statements

ALBUQUERQUE — New Mexico Attorney General Hector Balderas announced today that the New Mexico Supreme Court issued an opinion in *State v. Oliver Tsosie*, which will allow the admission at trial of most of the now-deceased sexual assault victim's statements to a sexual assault nurse examiner (SANE).

The defendant has been charged with criminal sexual penetration and kidnapping, among other crimes, for his attack on the victim, his former boyfriend. After the attack, during which the victim was raped, he was examined by a SANE. Thereafter, the victim died. Before trial, the prosecution moved to admit the SANE nurse's testimony about statements that the victim made to her. The district court excluded almost all of the SANE's testimony on the ground that the primary purpose of the statements made to her was not for medical treatment, so that admitting them would violate Defendant's right under the Sixth Amendment's Confrontation Clause to confront the person who made the statements (the victim). The Court of Appeals affirmed. Today, in a significant opinion, the Supreme Court of New Mexico reversed, holding that almost all of the statements at issue are admissible because they were given for the primary purpose of medical treatment.

"I am pleased that the Supreme Court recognized the important medical role that SANEs provide for sexual assault victims," said Attorney General Balderas. "It is important that sexual assault victims seek help from such professionals who can provide needed help and services."

The case will be remanded to the Second Judicial District Court for trial. The case is being prosecuted by the Second Judicial District Attorney's Office and was litigated on appeal by Assistant Attorney General Maris Veidemanis.

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