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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

**No. 35,412**

5 **RAY DANIEL GALLEGOS,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

8 **Stan Whitaker, District Judge**

9 Hector H. Balderas, Attorney General

10 Laura E. Horton, Assistant Attorney General

11 Santa Fe, NM

12 for Appellee

13 Bennett J. Baur, Chief Public Defender

14 Will O'Connell, Assistant Public Defender

15 Santa Fe, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **VIGIL, Judge.**

19 {1} Defendant appealed from a judgment and sentence. We issued a second

1 calendar notice continuing to propose to affirm as to the issues initially raised in the  
2 docketing statement, but granting Defendant's motion to amend and proposing to  
3 reverse as to the newly-raised issue, by which Defendant advanced a double jeopardy  
4 challenge.

5 {2} Defendant has filed a responsive memorandum in which no new facts,  
6 arguments, or authorities are presented. The State has filed a responsive document  
7 indicating that it does not oppose.

8 {3} Accordingly, for the reasons previously stated in the notices of proposed  
9 summary disposition, we reject the various issues and arguments initially advanced  
10 in the docketing statement. However, with respect to the double jeopardy challenge,  
11 we reverse and remand to the district court with instruction to vacate one of the  
12 convictions and re-sentence Defendant accordingly.

13 {4} **IT IS SO ORDERED.**

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 **MICHAEL E. VIGIL, Judge**

16 **WE CONCUR:**

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 **LINDA M. VANZI, Chief Judge**

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2 **JAMES J. WECHSLER, Judge**