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

2 **STATE OF NEW MEXICO,**

3           Plaintiff-Appellant,

4 v.

**NO. 31,242**

5 **JOSEPH MARTINEZ,**

6           Defendant-Appellee.

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

8 **Denise Barela Shepherd, District Judge**

9 Gary K. King, Attorney General

10 Margaret McLean, Assistant Attorney General

11 Joel Jacobsen, Assistant Attorney General

12 Santa Fe, NM

13 for Appellant

14 Bregman & Loman, P.C.

15 Eric Loman

16 Albuquerque, NM

17 for Appellee

18   **MEMORANDUM OPINION**

19 **VANZI, Judge.**

1 Appellant's Motion for Rehearing is granted. The memorandum opinion filed  
2 in this case on February 15, 2012, is hereby withdrawn, and this opinion is substituted  
3 in its place.

4 Summary affirmance was proposed for the reasons stated in the notice of  
5 proposed disposition. The State has informed us that it does not oppose the proposed  
6 result, although it has also asked us to provide clarification on a single point. As  
7 requested, we clarify that we do not decide what effect, if any, the trial court's order  
8 has on the alleged victim's right to freely testify in any future proceeding.

9 AFFIRMED.

10 **IT IS SO ORDERED.**

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**LINDA M. VANZI, Judge**

13 **WE CONCUR:**

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**JAMES J. WECHSLER, Judge**

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17 \_\_\_\_\_  
**JONATHAN B. SUTIN, Judge**