



1 {1} Defendant Michael Rodriguez was convicted of first-degree murder for killing  
2 his girlfriend Mariana Barnes-Lucero contrary to NMSA 1978, Section 30-2-1(A)(1)  
3 (1994). Defendant was also convicted of tampering with evidence contrary to NMSA  
4 1978, Section 30-22-5(B)(1) (2003). The district court sentenced Defendant to life  
5 in prison plus three years.

6 {2} On direct appeal pursuant to Article VI, Section 2 of the New Mexico  
7 Constitution and Rule 12-102(A)(1) NMRA, Defendant raises four issues: (1) the  
8 district court abused its discretion when it allowed jail phone calls into evidence that  
9 alerted the jury that Defendant was a detainee at the Valencia County Detention  
10 Center, (2) the district court abused its discretion when it allowed in pictures of  
11 Defendant that showed his tattoos, (3) the district court erred in denying multiple  
12 defense motions for mistrial during voir dire, and (4) there was insufficient evidence  
13 of deliberate intent to support Defendant's conviction for first-degree murder.

14 {3} We affirm Defendant's convictions. Because Defendant raises no questions of  
15 law that New Mexico precedent does not already sufficiently address, we issue this  
16 non-precedential decision. *See* Rule 12-405(B)(1) NMRA.

## 17 **I. BACKGROUND**

18 {4} At trial, Defendant did not dispute that he took Barnes-Lucero's life on the

1 evening of February 29, 2016, but claimed that at the time of the killing he was  
2 mentally ill and intoxicated from drinking alcohol such that he was not capable of  
3 forming the deliberate intent required for a first-degree murder conviction. *See* § 30-  
4 2-1(A)(1), UJI 14-5110 NMRA. Defendant asked the jury to find him guilty of  
5 second-degree murder rather than first-degree murder.

6 {5} Defendant went to Bobby McGee's house the morning of Barnes-Lucero's  
7 death. After Defendant and McGee worked at a property across the street, McGee  
8 bought an eighteen-pack of beer. They returned to McGee's house. McGee drank  
9 two beers and he saw Defendant drink "a couple" of beers. Defendant then left  
10 McGee's house and returned to his grandmother's house, where he lived. McGee said  
11 Defendant took the remaining beer with him when he left.

12 {6} Defendant's grandmother, Irma Rodriguez, testified that when Defendant came  
13 home sometime between 12:00 p.m. and 1:00 p.m., he sat on the porch and she  
14 thought it was "really weird." She smelled alcohol on Defendant, and his eyes looked  
15 "glassy, weird." She asked him to do some weeding in the backyard. While  
16 Defendant worked in the yard, he was listening to something through headphones.  
17 Grandmother said he was screeching and screaming to whatever he was listening to  
18 and it made her uneasy and she did not like it. She asked Defendant to take off the

1 headphones and he became upset and “lost it.” Defendant kicked a flowerpot and  
2 stormed into the house. Grandmother followed him inside and Defendant pushed her.  
3 Defendant knocked a hole in the wall, tore down a cable outside, and left.  
4 Grandmother called the police because “he was in no shape to be driving. . . . I didn’t  
5 want him on the streets because . . . he wasn’t being himself at that point.”  
6 Grandmother said that after Defendant left, she found a couple of beer cans where he  
7 had been raking and a plastic Walmart bag full of beer cans in her trash, none of  
8 which she believed had been there before.

9 {7} Defendant went back to McGee’s house and told McGee that he had gotten into  
10 a fight with his grandmother and needed a place to stay. McGee told Defendant he  
11 could spend the night at his house. McGee said Defendant seemed “a little goofy” and  
12 was “a little buzzed.” They bought more beer, and McGee said he drank one but did  
13 not know how much beer Defendant drank. Defendant called Barnes-Lucero and she  
14 arrived at McGee’s house about fifteen to twenty minutes later. McGee then left to  
15 meet his girlfriend and told Defendant and Barnes-Lucero, “You guy[s] have the  
16 house to yourselves until I get back.”

17 {8} When McGee returned home about two hours later, Defendant’s car was gone  
18 and the lights were out. McGee said the door was open, and he walked inside and saw

1 Barnes-Lucero lying on the floor. He thought that it was unusual for her to be  
2 sleeping at the time and that perhaps she and Defendant were playing a prank on him.  
3 McGee went to the bathroom and then returned to the living room, looked closer at  
4 Barnes-Lucero's face, and got scared. He saw her eyes were open and "then I saw the  
5 neck, and I just left." McGee went to his girlfriend's house. His girlfriend called  
6 McGee's grandmother, and his grandmother called the police.

7 {9} At around 8:00 p.m. or 9:00 p.m. that night, Defendant had a brief encounter  
8 with his sister's ex-boyfriend, Matthew Brennan, at a gas station on Coors Boulevard  
9 in Albuquerque. Brennan was with a friend, Colton Ogle, who also testified at trial.  
10 Brennan testified that he was pulling up to the gas station when Defendant came up  
11 to his car and "seemed really pumped up in an excited manner." Brennan asked  
12 Defendant what was going on, and Defendant said, "Just watch the Ten O'clock  
13 News." Brennan asked why, and Defendant said, "Just watch it." Brennan said the  
14 Defendant did not appear drunk but seemed "[a]mped up. Not a normal, calm state."  
15 Brennan noticed deep scratches on Defendant's neck.

16 {10} A little after midnight, police found Defendant sitting in his car outside of his  
17 grandmother's house. Defendant was removed from the car and taken into custody.  
18 State Police Officer Mitchell Bengston interviewed Defendant after reading him his

1 rights. Officer Bengston noticed fresh scratches on Defendant's neck and upper chest.  
2 Defendant told Officer Bengston that he had been drinking the day before and did not  
3 remember what happened. About ten minutes into the interview, Officer Bengston  
4 asked Defendant if he would submit to a breath test and Defendant agreed. The breath  
5 test result was a .02 blood alcohol content (BAC). Officer Bengston testified that it  
6 takes about an hour for an average person to lose .02 BAC from their system, so he  
7 decided to wait an hour before resuming the interview. After an hour passed,  
8 Defendant was tested again and his BAC was .00, so the interview was started again.

9 {11} Officer Bengston testified that whenever he asked Defendant about Barnes-  
10 Lucero he would become distant, his eyes would move rapidly, and he would place  
11 his head in his hands and sigh. Officer Bengston asked Defendant about the scratches  
12 on his neck, and Defendant said he could have gotten the scratches when he was  
13 arrested. Defendant testified that the blood on his socks came from a cut on his knee.  
14 Officer Bengston also testified that Defendant raised his pant leg and showed him a  
15 scab that was "very obviously completely scabbed over. It was not fresh."

16 {12} Forensic pathologist Dr. Hannah Kastenbaum testified that Barnes-Lucero was  
17 stabbed in the neck ten times with what appeared to be two different blades—six  
18 wounds from a double-edged blade and four wounds from a single-edged blade.

1 Barnes-Lucero also had injuries to the thyroid cartilage and hyoid bone, ligature marks  
2 on her neck and mouth, and petechiae in her eyes, all of which indicated that she had  
3 been strangled. Ultimately, Dr. Kastenbaum concluded that Barnes-Lucero died from  
4 “[s]trangulation and sharp-force injuries of the neck.”

5 {13} Samantha Rynas, a DNA analyst with the Department of Public Safety Forensic  
6 Laboratory, testified that blood on Defendant’s blue jeans matched Barnes-Lucero’s  
7 DNA. Rynas also testified that she tested a sample from Barnes-Lucero’s fingernails  
8 and found it “was consistent with [Defendant] contributing DNA to that sample.”

9 {14} The jury was instructed on first-degree murder, second-degree murder, and  
10 tampering with evidence. The jury was also given UJI 14-5110 to consider whether  
11 Defendant’s mental disease and intoxication may have negated the specific intent  
12 element of first-degree murder. The jury found Defendant guilty of first-degree  
13 murder and tampering with evidence.

14 {15} Other facts are developed as necessary for the issues presented below.

## 15 **II. DISCUSSION**

### 16 **A. Jail Phone Calls Were Properly Admitted By the District Court**

17 {16} Over Defendant’s objection, the district court admitted into evidence two  
18 recordings of telephone conversations—one between Defendant and his mother, the

1 other with his father—which occurred while Defendant was in pre-trial custody at the  
2 Valencia County Detention Center. Defendant contends that the district court erred  
3 in admitting the recordings because it raises an inference of guilt and deprives him of  
4 the presumption of innocence for the jury to find out that he was in jail. The district  
5 court held that given the circumstances under which the calls were made and their  
6 proximity to the murder, their probative value was not substantially outweighed by the  
7 danger of unfair prejudice.

8 {17} The conversations were recorded three days after Defendant was arrested. In  
9 the first conversation, Defendant’s mother asks him if the knives that police found in  
10 his car were “all clean,” to which Defendant responds, “Yeah, they were all clean . . .  
11 but they’re going to have a hard time matching it because it’s pretty nasty, pretty nasty  
12 . . . so they’re going to have a hard time matching it. . . . Basically right now all I think  
13 they have is my clothes with blood on them.” In the second conversation, Defendant’s  
14 father asks him, “Do you remember anything?” and Defendant replies, “Fuck, yeah.”  
15 His father then asks, “You remember everything?” and Defendant replies, “I know  
16 exactly what happened,” to which his father responds, “I thought you were too  
17 fucking high to remember anything.” Defendant responds, “That’s the story.”

18 {18} We review the admission of evidence under an abuse of discretion standard.

1 *State v. Branch*, 2010-NMSC-042, ¶ 9, 148 N.M. 601, 241 P.3d 602. “Whether there  
2 was possible unfair prejudice in admitting evidence is a matter within the trial court’s  
3 discretion.” *State v. Trujillo*, 1981-NMSC-023, ¶ 32, 95 N.M. 535, 624 P.2d 44. “An  
4 abuse of discretion occurs when the ruling is clearly against the logic and effect of the  
5 facts and circumstances of the case.” *State v. Guerra*, 2012-NMSC-027, ¶ 18, 284  
6 P.3d 1076 (internal quotation marks and citation omitted). Rule 11-403 NMRA  
7 provides that “[a] court may exclude relevant evidence if its probative value is  
8 substantially outweighed by a danger of . . . unfair prejudice.” “The purpose of Rule  
9 11-403 is not to guard against any prejudice whatsoever, but only against the danger  
10 of unfair prejudice. Evidence is not unfairly prejudicial simply because it inculcates  
11 the defendant. Rather, prejudice is considered unfair when it goes only to character  
12 or propensity.” *State v. Maxwell*, 2016-NMCA-082, ¶ 24, 384 P.3d 116 (emphasis,  
13 internal quotation marks, and citation omitted).

14 {19} Defendant objected to the admission of the recordings through a motion in  
15 limine and a trial objection. Because Defendant brought the issue to the attention of  
16 the district court and the court ruled the recordings were admissible, this was  
17 sufficient to preserve the issue for appellate review under Rule 12-321(A) NMRA.

18 {20} Defendant argues that because every defendant is entitled to a fair and impartial

1 trial, including the presumption of innocence, that included in that presumption of  
2 innocence is the physical indicia of innocence. Relying on cases where indicia of  
3 innocence refers to the right of a defendant to be tried in front of a jury in a courtroom  
4 in appropriate clothing rather than in prison clothing and handcuffs or shackles,  
5 Defendant claims that using the jail phone calls violated his right to be presumed  
6 innocent. Generally, it would be improper for the prosecution to inform the jury that  
7 a defendant is held in custody unless there was some basis for doing so other than  
8 implying that the defendant was guilty or a person of bad character. In this case, the  
9 recordings were proffered as evidence of Defendant's mental state at the time of the  
10 killing and not merely to malign Defendant's character. The prejudicial impact of  
11 alerting the jury that Defendant was in jail three days after the crime took place was  
12 minimal as it is commonly understood that a person suspected of committing murder  
13 may be held in pre-trial custody. Alerting the jury of Defendant's incarceration was  
14 not, as Defendant argues, the same as a defendant appearing before the jury in prison  
15 clothing or shackles. The district court carefully weighed the prejudicial impact of the  
16 evidence with its probative value before admitting the recordings. In making its  
17 decision, the district court weighed the probative value of the evidence with its  
18 prejudicial effect pursuant to Rule 11-403. The district court's ruling was not contrary

1 to reason and it was not an abuse of discretion to admit the recordings. Accordingly,  
2 we affirm the district court's admission of the jail phone calls.

3 **B. Photographs of Defendant Showing His Tattoos Were Properly Admitted**

4 {21} Defendant next argues that the district court erred in admitting photographs of  
5 Defendant which show his tattoos. Defendant contends the photographs "did nothing  
6 more than arouse the passions of the jury by portraying [Defendant] in an offensive  
7 light, as one of low moral character, based on his physical appearance." The State  
8 argues the photos, which show scratches on Defendant's arms, torso, and neck, were  
9 telling of a prolonged physical struggle between Defendant and Barnes-Lucero and  
10 were thus probative of Defendant's intent.

11 {22} "We review a trial court's exercise of discretion in admitting allegedly  
12 prejudicial photographs under an abuse of discretion standard." *State v. Saiz*, 2008-  
13 NMSC-048, ¶ 53, 144 N.M. 663, 191 P.3d 521 (*abrogated on other grounds by State*  
14 *v. Belanger*, 2009-NMSC-025, ¶ 36 n.1, 146 N.M. 357, 210 P.3d 783). "A trial court  
15 has great discretion in balancing the prejudicial impact of a photograph against its  
16 probative value." *Id.* ¶ 54 (citation omitted). Defendant preserved the issue through  
17 trial objections to the photographs. *See* Rule 12-321.

18 {23} State Police Officer Phillip Vargas took the photos of Defendant the day after

1 the murder. Ten of the admitted photos show Defendant’s tattoos. At trial, Defendant  
2 argued that there was nothing relevant about the tattoos and that they could give the  
3 jury a poor impression of Defendant. The State argued that the photos were relevant  
4 in that they showed fresh defensive wounds on Defendant and tattoos have become  
5 more socially acceptable and the possible prejudice was less than Defendant claimed.  
6 The district court did not explain its reasoning for admitting the ten photos but did  
7 exclude one photo (State’s Exhibit 78) because it apparently showed a tattoo of an  
8 upside-down cross with the word “evil” written underneath.

9 {24} The photographs that were admitted were relevant in that they show  
10 Defendant’s body the morning after Barnes-Lucero was found dead. Other than the  
11 existence of the tattoos themselves, the prejudice to Defendant is not readily apparent  
12 by their designs or form. The majority of tattoos visible in the admitted photographs  
13 are relatively small, innocuous designs with no discernable meaning. Only two tattoos  
14 have apparent meaning—one is a Christian cross and the other is the word “GOOD”  
15 underneath the cross. There is nothing inherently offensive or shocking about these  
16 two tattoos. Accordingly, it was not an abuse of discretion by the district court to  
17 admit the ten photos in which Defendant’s tattoos are visible.

18 **C. Defense Motions for Mistrial During Jury Selection**

1 {25} Defendant next argues the district court erroneously denied defense motions for  
2 mistrial during jury selection. Defendant claims that because of statements of jurors  
3 during jury selection which hinted at the brutality of the crime, the empaneled jury  
4 developed a bias against Defendant and he did not receive a fair trial.

5 {26} This Court reviews the denial of a motion for mistrial for an abuse of discretion.  
6 *State v. Torres*, 2012-NMSC-016, ¶ 7, 279 P.3d 740. “The trial court abuses its  
7 discretion in ruling on a motion for mistrial if in doing so it acted in an obviously  
8 erroneous, arbitrary, or unwarranted manner.” *Id.* (internal quotation marks and  
9 citation omitted).

10 {27} The first motion for mistrial came after the prosecutor spoke about the burden  
11 of proof and told the jurors they would have to decide whether Defendant is guilty or  
12 innocent based only upon the evidence presented in court. The prosecutor then asked  
13 if any of the jurors would have a problem with doing that, and a juror stated, “Upon  
14 learning that I was called for this, of course, I immediately go to research and inform  
15 myself about it. And based upon what I learned of how the victim died, the brutality  
16 of it, immediately gave me a sense of—” The prosecutor immediately stopped the  
17 juror from saying anything further, and Defendant moved for a mistrial, arguing that  
18 the juror had contaminated the jury panel. The district court denied the motion for

1 mistrial, and the juror was later individually examined and ultimately excused for  
2 cause.

3 {28} The second motion came after two jurors spoke only minutes later. The first  
4 juror said he was a “first responder and firefighter” and had “respond[ed] to this call  
5 in [his] rescue district.” The prosecutor asked the juror if he would find it difficult to  
6 be fair and impartial, and the juror responded “Yes.” Immediately after this, a second  
7 juror said he was an “Albuquerque firefighter” and his daughter was

8 dispatch for Valencia County. So I do hear a lot that goes on there, and  
9 I do—I’m pretty much the same as [the other first responder]. I see the  
10 aftermath of what happens. I have to respond to the person that’s  
11 accused as they’re trying to get out of it, of being arrested, and the  
12 excuses that they use.

13 Defendant again argued for a mistrial, stating that the panel had become contaminated  
14 and would have a preconceived notion of “how outrageous this was.” The district  
15 court denied the motion for mistrial, and neither juror was selected to serve on the  
16 jury.

17 {29} Later that afternoon, the prosecutor asked the panel if anyone would have  
18 difficulty sitting in judgment of another person, to which a juror replied, “I heard  
19 something else downstairs that has been eating at me since.” Then, outside the  
20 presence of the jury panel, the juror said, “It’s just something that someone had said

1 downstairs in the waiting room where he had sliced her throat. And it's been eating  
2 at me since I heard it, and I don't know if I can . . . honestly form a truthful opinion.”  
3 The juror explained that she overheard the conversation between two jurors while in  
4 the waiting room earlier that morning but her eyes were closed, so she did not see who  
5 was speaking and did not know if they were still on the panel. The juror went on to  
6 say everyone was talking in the waiting room but she was not and she did not think  
7 the conversation could be overheard by others. She said that she could not be fair and  
8 impartial and was excused. Defendant moved for a mistrial a third time, claiming the  
9 harm could not be cured. The district court again denied the motion for mistrial and  
10 asked the remaining jurors if they overheard anybody discussing information about  
11 the Defendant's case. None of the jurors indicated that they had.

12 {30} The district court then asked if anyone had told other jurors anything about the  
13 case. One juror raised his hand and was asked to approach the bench. The juror said  
14 that he spoke with a friend who was also on the panel and who had worked as a first  
15 responder in this case. The juror said that the first responder told him that “it was a  
16 mess over there and that the guy had tried to clean up the evidence and that kids were  
17 there.” The district court determined that it was the same first responder who spoke  
18 earlier in the morning and had been dismissed. The juror said that he told another

1 male juror what the first responder had told him. The juror did not believe that the  
2 person he told was still on the panel, but was not sure. The juror was excused for  
3 cause, and Defendant moved for mistrial a fourth time. The district court denied the  
4 motion.

5 {31} The essential question regarding a claim of jury bias is “whether the  
6 circumstance unfairly affected the jury’s deliberative process and resulted in an unfair  
7 jury.” *State v. Mann*, 2002-NMSC-001, ¶ 20, 131 N.M. 459, 39 P.3d 124. A  
8 defendant asserting a claim of juror bias “bears the burden to establish that the jury  
9 was not fair and impartial, and must demonstrate bias or prejudice on the part of the  
10 remaining jurors.” *State v. Gallegos*, 2009-NMSC-017, ¶ 22, 146 N.M. 88, 206 P.3d  
11 993.

12 {32} Defendant offers only a general claim of jury bias but provides no explanation  
13 or details, other than the instances discussed above, to support his claim that the  
14 empaneled jury was biased and unable to deliberate in a fair and impartial manner.  
15 The jurors involved in the above instances were excused from serving, and Defendant  
16 does not point to anything in the record to suggest that the empaneled jurors were  
17 biased or motivated by partiality in their deliberation or verdict. The voir dire process  
18 is designed to ferret out grounds for juror disqualification, and in this case the process

1 worked as it should. The revelation during voir dire that the case was about a “brutal”  
2 murder was not so inflammatory given the circumstances of Barnes-Lucero’s death  
3 which were revealed during trial. The district court took appropriate steps to  
4 minimize any prejudicial impact that members of the jury pool may have had on those  
5 jurors ultimately chosen to serve. The district court’s denial of the motions for  
6 mistrial was not erroneous, arbitrary, or unwarranted. Accordingly the district court  
7 did not abuse its discretion and we affirm.

8 **D. The Evidence Was Sufficient to Convict Defendant of First-Degree Murder**

9 {33} Finally, Defendant alleges that there was insufficient evidence to support his  
10 conviction for first-degree, premeditated murder. On appeal, “[t]he test for  
11 sufficiency of the evidence is whether substantial evidence of either a direct or  
12 circumstantial nature exists to support a verdict of guilt beyond a reasonable doubt  
13 with respect to every element essential to a conviction.” *State v. Flores*, 2010-NMSC-  
14 002, ¶ 2, 147 N.M. 542, 226 P.3d 641 (internal quotation marks and citation omitted).  
15 “[W]e must view the evidence in the light most favorable to the guilty verdict,  
16 indulging all reasonable inferences and resolving all conflicts in the evidence in favor  
17 of the verdict.” *State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998  
18 P.2d 176.

1 {34} Given Defendant’s concession that he killed Barnes-Lucero, the jury was  
2 essentially tasked with deciding whether to convict Defendant of first- or second-  
3 degree murder. To convict Defendant of first-degree murder, the jury had to find that  
4 Defendant killed Barnes-Lucero and “[t]he killing was with the deliberate intention  
5 to take away the life of [Mariana] Barnes-Lucero.” Second-degree murder required  
6 the jury to find Defendant “knew that his acts created a strong probability of death or  
7 great bodily harm to [Mariana] Barnes-Lucero.”

8 {35} “Deliberate” is defined as “arrived at or determined upon as a result of careful  
9 thought and the weighing of the consideration for and against the proposed course of  
10 action.” UJI 14-201 NMRA. “A mere unconsidered and rash impulse, even though  
11 it includes an intent to kill, is not a deliberate intention to kill.” *Id.* “A deliberate  
12 intention is rarely subject to proof by direct evidence and often must be inferred from  
13 the circumstances.” *State v. Astorga*, 2015-NMSC-007, ¶ 60, 343 P.3d 1245. Because  
14 Defendant raised the issue of his mental incapacity at the time of the killing, the State  
15 had the burden of proving Defendant was capable of forming a deliberate intention to  
16 take the life of another. *See* UJI 14-5110.

17 {36} For the following reasons we conclude that the evidence presented was  
18 sufficient for the jury to reasonably find that Defendant killed Barnes-Lucero with the

1 deliberate intention to take away her life. First, the evidence regarding the way  
2 Barnes-Lucero was killed can be viewed as proof of Defendant's deliberate intention  
3 to take away her life. *See State v. Duran*, 2006-NMSC-035, ¶ 8, 140 N.M. 94, 140  
4 P.3d 515 (concluding that "a reasonable jury could have believed [the d]efendant had  
5 the deliberate intent to kill the victim by inferring from the physical evidence of a  
6 prolonged struggle and multiple stab wounds"). Dr. Kastenbaum testified that Barnes-  
7 Lucero was stabbed ten times in the neck, and the wounds indicated that two different  
8 blades had been used to cause the stab wounds. Dr. Kastenbaum also said that  
9 Barnes-Lucero's heart was still pumping when she was strangled and stabbed. The  
10 Defendant had deep scratches on his neck and arms which indicated a physical  
11 struggle that lasted for more than a few seconds.

12 {37} Second, there was evidence from which the jury could infer that despite  
13 drinking beer, Defendant was relatively lucid and capable of deliberate action only  
14 hours before and after killing Barnes-Lucero. Defendant drove to McGee's house  
15 after arguing with his grandmother, and McGee testified that Defendant was "a little  
16 buzzed" when he came back to his house. Defendant called Barnes-Lucero, she went  
17 to McGee's house, and the three interacted until McGee left to meet his girlfriend.  
18 After killing Barnes-Lucero, Defendant drove to Albuquerque. Brennan and Ogle saw

1 him at a gas station on Coors Boulevard at around 8:00 p.m. or 9:00 p.m. that night.  
2 Brennan testified that Defendant told him to “watch the Ten O’clock News” in an  
3 excited manner but “didn’t seem drunk” and he “couldn’t smell anything on his  
4 breath.” Brennan testified that Defendant “seemed like himself, but he definitely just  
5 was an accelerated version of himself.” At approximately 4:00 a.m. the following  
6 morning, Defendant had a BAC level of .02 when the police gave him a breath test.  
7 The jury could have inferred that Defendant was not intoxicated to such a degree that  
8 he was incapable of forming the deliberate intention to kill Barnes-Lucero.

9 {38} Finally, the evidence of the recorded conversation between Defendant and his  
10 father is dispositive of his claim that Defendant did not remember anything after he  
11 began drinking, as he had told the police. When his father asked Defendant, “Do you  
12 remember anything?” Defendant responded, “Fuck, yeah” and then said, “I know  
13 exactly what happened.” And from the conversation with his mother in which he  
14 discusses the knives found in his truck and describes the circumstances as “pretty  
15 nasty,” the jury could infer that Defendant understood the nature and manner of the  
16 crime and did not suffer from a mental impairment at the time that would have  
17 hindered his capacity for deliberate intention.

18 {39} When viewed in the light most favorable to the guilty verdict for first-degree

1 murder, the evidence was sufficient and we affirm Defendant's conviction.

2 **V. CONCLUSION**

3 {40} For the foregoing reasons, we affirm Defendant's convictions of first-degree  
4 murder and tampering with evidence.

5 {41} **IT IS SO ORDERED.**

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**PETRA JIMENEZ MAES, Justice**

8 **WE CONCUR:**

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10 **JUDITH K. NAKAMURA, Chief Justice**

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12 **CHARLES W. DANIELS, Justice**

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14 **BARBARA J. VIGIL, Justice**

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2 **GARY L. CLINGMAN, Justice**