

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,
Plaintiff,

v.

CR 2016-00789
DA# 2016-01172-1

DARRIUS DAVON VALLES
Defendant.

STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS HOMICIDE COUNT

COMES NOW the State of New Mexico, by and through its Assistant District Attorney, Les Romaine, and hereby submits its *Response to Defendant's Motion to Dismiss Homicide Count*, and respectfully requests that this Court Deny Defendant's Motion.

1. The Defendant's Motion to Dismiss cites State v. Foulenfont, 119 N.M. 788, 895 P.2d 1329 (Ct. App. 1995), as authority for the Court to decide the legal issues and dismiss if appropriate.
2. The basis for the Court's ruling in Foulenfont was that "the State never disputed Defendants' characterization of the factual predicate underlying the charges, and instead engaged the district court in a purely legal argument." Id., 119 N.M. 788, 790, 593 P.2d 1329, 1331.
3. In the present matter, the Defendant asserts that "there is no admissible evidence that the Defendant committed the crimes charged."
4. The State does not stipulate that the same evidence as provided in its supplemental report and pretrial interviews will be presented against Mr. Valles in trial. Therefore, the dispute before the court is both factual and legal.
5. Trial by jury is the normal and preferable method of disposing of issues of fact. State v. First Judicial Dist. Court, 52 N.M. 28, 191 P.2d 334 (1948).

WHEREFORE, the State requests that the Court deny the Defendant's *Motion to Dismiss Homicide Count*.

Respectfully submitted,



Les Romaine
Assistant District Attorney

I hereby certify that a true and correct copy of the foregoing
was sent to Tom Clark on this 12th day of June, 2017.



Les Romaine
Assistant District Attorney