

STATE OF NEW MEXICO  
COUNTY OF LINCOLN  
TWELFTH JUDICIAL DISTRICT

FILED  
DISTRICT COURT OF  
LINCOLN COUNTY, N.M.  
15 JUN 29 PM 3:51

**STATE OF NEW MEXICO,**

Plaintiff,

v.

**SANTIAGO VICTOR CARRILLO,**

No. CR-13-260/CR-12-139

Defendant,

And

**NEW MEXICO LAW OFFICE OF THE PUBLIC DEFENDER**  
Real party in interest.

**ORDER DECLARING THE PROHIBITION AGAINST HOURLY RATES  
TO CONTRACTORS UNCONSTITUTIONAL**

**THIS MATTER**, coming before the Court on the original Motion and the Motion of the Defendant Santiago Victor Carrillo to declare "The appropriations to the public defender department shall not be used to pay hourly reimbursement rates to contract attorneys" as found in HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2 and 4, as amended (the "General Appropriation Act of 2015") enacted by the Fifty-Second Legislature, First Session, 2015, violative of certain provisions of the New Mexico

Constitution; the State represented by its Deputy District Attorney Matthew R. Wade, the Defendant Santiago Victor Carrillo, represented by Gary C. Mitchell and the New Mexico Law Offices of the Public Defender (LOPD) formerly represented by the Attorney General of the State of New Mexico but now by Karl Erich Martell, the Court finds the motion is well taken.

**IT IS THE FINDING OF THE COURT:** The clause in question, implicates a fundamental right, the right to counsel, and does so in a way that is not the least restrictive means possible, so therefore is unconstitutional.

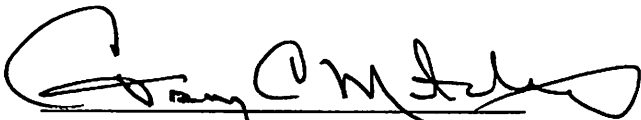
**THEREFORE IT IS ORDERED:** The provision found in HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2 and 4, as amended (the "General Appropriation Act of 2015") enacted by the Fifty-Second Legislature, First Session, 2015, which states: "The appropriations to the public defender department shall not be used to pay hourly reimbursement rates to contract attorneys" is violative of the New Mexico Constitution and the Constitution of the United States of America and the offending prohibition/provision is hereby declared unconstitutional and shall have no force, effect and/or validity.

**IT IS FURTHER ORDERED:** That the State of New Mexico, including Department of Finance Administration, pay all invoices submitted by the Law

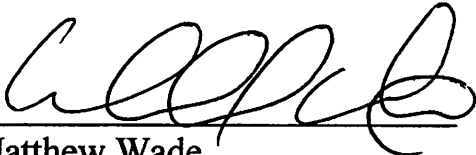
Office of the Public Defender regardless of whether the invoice is based on hourly rates.

  
DISTRICT JUDGE

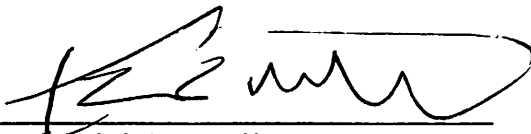
APPROVED BY:



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