

## New Mexico Court Of Appeals Acquits Samantha Garcia Of Negligent Child Abuse

The New Mexico Court of Appeals [has acquitted](#) Samantha Garcia of her conviction of negligent child abuse by endangerment after her three-year-old son was found outside their apartment at 2 a.m.

In May 2010 Sandra Garcia lived with her three-year-old son in an apartment in Clovis, New Mexico. On May 15 a woman getting ready for work at 2 a.m. found her neighbor Garcia's son wandering outside their apartment in the parking lot wearing only a diaper and crying for his mother. The neighbor found Garcia's apartment door ajar. She was unable to rouse Garcia from her deep sleep and after changing the child's diaper and putting him in bed she called the police. Garcia's boyfriend was also asleep in her bedroom. After the police arrived Garcia was groggy and she told them she had been drinking and smoked some marijuana that night. Garcia was arrested and charged with felony negligent child abuse by endangerment.

Garcia refused a plea bargain and went to trial in the Curry County District Court.

The prosecution's case was based on testimony that at the time Garcia's son was found in the parking lot she was intoxicated from drinking alcohol and smoking marijuana.

The New Mexico statute under which Garcia was charged required the prosecution to prove beyond a reasonable doubt that she knowingly, intentionally, or negligently placed her son "in a situation that may endanger the child's life or health." NMSA 1978, Section 30-6-1(D)-(E) (2009).

Garcia made a motion for a directed verdict of acquittal at the close of the prosecution's case, arguing there was insufficient evidence to prove her guilt beyond a reasonable doubt because no evidence was introduced her son had been in a direct line of harm or otherwise exposed to anything more than a mere possibility, rather than a probability, he was in danger. Garcia also argued to the judge that the prosecution didn't introduce any evidence her intoxication contributed to her son wandering outside the apartment. The trial judge denied Garcia's motion.

Relying on what she thought was the inadequacy of the prosecution's case, Garcia neither testified nor called any witnesses in her

defense.

After the jury convicted Garcia she was sentenced to three years in prison, with her jail sentence suspended pending her completion of three years probation.

Garcia appealed, and on October 7, 2013 the New Mexico Court of Appeals issued [their majority ruling](#). In *New Mexico v. Samantha Garcia*, No. 31, 429 (Ct of Appeals, 10-7-2013) the Court reversed Garcia's conviction on the basis there was insufficient evidence to support her conviction. Judge Timothy L. Garcia wrote in the Court's majority opinion:



{8} In this case, the State argued that Defendant's intoxication was criminally negligent because it left Child without adequate supervision.

...

{11} The evidence presented by the State during trial was only sufficient to establish that Defendant was intoxicated when she fell asleep in her bedroom on the night in question. Factually, this particular event of falling asleep did not create a foreseeable risk of danger directed toward Child. ... A jury must draw its reasonable conclusions from the evidence produced at trial, it must not be left to speculate in the absence of such proof. Simply falling asleep intoxicated in a separate bedroom is not enough to establish child endangerment.

{12} The State failed to connect Child's ability to wander out of the apartment with Defendant's intoxication or otherwise prove that Defendant acted or failed to act with any resulting foreseeable risk that endangered Child's life or health. ...

{13} ... We, as a society, cannot punish parents under a theory of strict liability for every imaginable error in judgment ... "[I]f imprudent and possibly negligent conduct were sufficient to expose a care giver to criminal liability for child endangerment, undoubtedly the majority of parents in this country would be guilty of child endangering—at least for acts of similar culpability."

{14} ... The State failed to establish any connection between Defendant's intoxication and Child's act of wandering out of the apartment on the night in question. ... Our review of the record leads us to conclude that Defendant's conviction for child abuse by endangerment is not supported by substantial evidence and

must be reversed.

Judge Jonathan B. Sutin wrote in his concurring opinion:

{30} To summarize, the bare facts of this case—intoxication to some unknown degree resulting in some degree of heavy sleep and Child having left the apartment—are little different from, and could well constitute, the unastonishing circumstances that regularly exist for thousands of parents throughout New Mexico who drink alcoholic beverages, take prescribed or over-the-counter sleep-inducing drugs, and fall asleep, even including parents who forget to assure that the front door is secure. Without greater objective proof establishing foreseeability, upholding Defendant's conviction leaves far too wide a prosecutorial universe than what I believe the Legislature could reasonably have intended. As the facts stand in this case, Defendant's conduct should have been handled, if at all, pursuant to the Legislature's civil abuse and neglect laws.

The judge that dissented from acquitting Garcia wrote in his opinion that instead he would have reversed her conviction and ordered a new trial on the basis the judge failed to give a lesser offense jury instruction.

The *appeals court's ruling* the prosecution failed to introduce sufficient evidence of Garcia's guilt bars her retrial under the New Mexico and U.S. Constitution's double jeopardy clauses.

The New Mexico Court of Appeals ruling in *New Mexico v. Samantha Garcia*, No. 31, 429 (Ct of Appeals, 10-7-2013) [can be read by clicking here](#).

Source:

[New Mexico v. Samantha Garcia](#), No. 31, 429 (Ct of Appeals, 10-7-2013)

[Intoxicated mom's child abuse conviction reversed](#), Associated Press Story, *Santa Fe New Mexican*, October 8, 2013

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