

Bond Case Briefs

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MUNICIPAL ORDINANCE - NEW MEXICO

Town of Silver City v. Ferranti

Supreme Court of New Mexico - March 20, 2014 - Not Reported in P.3d - 2014 WL 1153775

Accused appealed assessment of fines related to determination of guilt for violation of criminal city ordinances for consumption of alcohol and marijuana in public park. After de novo bench trial, the District Court dismissed charges against accused and found that fines were grossly disproportionate to gravity of offenses. City appealed.

The Supreme Court of New Mexico held that:

- Ordinance giving police authority to issue citations for violations of criminal ordinances in lieu of arrest was not unconstitutionally vague, and
- Fines were not excessive and did not constitute cruel and unusual punishment.

City ordinance allowing police officers authority to issue citations for violations of criminal ordinances in lieu of arrest was not unconstitutionally vague, even though ordinance lacked express guidance regarding exercise of officers' authority. Express standards were not required before officer could exercise his discretion to either arrest or issue citation.

Fines imposed on accused for violations of city ordinances prohibiting accused's consumption of alcohol and marijuana in public park were not excessive and did not constitute cruel and unusual punishment. Fine for possession of marijuana was within amount specified under ordinance, and fine for drinking in public place was less than amounts prescribed by ordinance.