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## **IMMUNITY - NEW MEXICO**

### [Sanders v. New Mexico Corrections Department](#)

**Supreme Court of New Mexico - October 10, 2024 - P.3d - 2024 WL 4456675**

Victim's estate brought wrongful death action against New Mexico Corrections Department (NMCD), its secretary, and its bureau records chief, alleging that victim was killed by inmate that NMCD erroneously released.

The District Court granted defendants summary judgment on basis that they were immune from suit under Tort Claims Act (TCA). Victim's estate appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. Defendants petitioned for review, which was granted.

The Supreme Court held that:

- There is no basis to conclude that there is a geographical limit on the location of an injury that would preclude the application of the building waiver of the TCA as a matter of law, abrogating *Archibeque v. Moya*, 116 N.M. 616, 866 P.2d 344, and
- Estate's claims were not barred simply because the death did not occur on or adjacent to NMCD's premises.

There is no basis to conclude that there is a geographical limit on the location of an injury that would preclude the application of the building waiver of the Tort Claims Act (TCA), which permits tort claims against governmental entities for damages resulting from wrongful death by the negligence of public employees while acting within the scope of their duties in the operation or maintenance of any building, as a matter of law, abrogating *Archibeque v. Moya*, 116 N.M. 616, 866 P.2d 344.

Wrongful death claims brought by estate of victim killed by an inmate that had been erroneously released by New Mexico Corrections Department (NMCD) were not barred simply because the death did not occur on or adjacent to NMCD's premises; Tort Claims Act's (TCA) building waiver extended to negligence occurring beyond the physical premises.