NMDPS – BATTERY/ PARENTAL DISCIPLINE

A twelve year old daughter was acting rude and sarcastic to her father. At one point he told her not to look into her younger brother's backpack but she ignored him. As she was reaching into her brother's backpack, her father came from behind, squeezed her hand, and said, "I told you not to do that." He also said, "enough is enough."

The mother (parents had been involved in a difficult divorce) asked Daughter if she wanted to speak to a police officer and she said yes. The officer testified he observed a bruise on Daughter's hand, a dark red mark the size of a dime. The father was convicted of battery in Bernalillo County, contrary to NMSA 1978, Section 30-3-4. Court of Appeals reversed, saying in effect, "enough is enough."

The Court of Appeals was concerned about prosecutorial interference with parental judgment. They noted that a parental discipline privilege exists and held that "a parent has a privilege to use moderate or reasonable physical force, without criminal liability, when engaged in the discipline of his or her child . . . an isolated instance of moderate or reasonable physical force that results in nothing more than transient pain or temporary marks or bruises is protected under the parental discipline privilege."

Court of Appeals also noted that "protection of parents should exist even if the parent acts out of frustration or short temper . . . any angry moment driving moderate or reasonable discipline is often part and parcel of the real world of parenting with which prosecutors and courts should not interfere. Defendant's conduct was justified parental discipline. State v. Lefevre (2005) - - - ADA Elliott