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## Santa Fe Reporter interviews Maryam Ahranjani: Change of Venue, District Court judge to consider defense's argument that a fair trial in the slaying of basketball star is impossible in Santa Fe

Maryam Ahranjani  
*University of New Mexico - School of Law*

Katherine Lewin

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## Change of Venue

District Court judge to consider defense's argument that a fair trial in the slaying of basketball star is impossible in Santa Fe

**Katherine Lewis**  
**Santa Fe Reporter**  
**March 3, 2021**

The contours of one of the thorniest and publicly painful murder trials in Santa Fe in some time, for the accused teenage killer of local high school basketball star Fedonta "J.B." White, will come into sharper focus on Thursday, when a judge is set to decide on several key issues—including whether the case should even proceed in the capital city.

Perhaps the most meaningful ruling expected from state District Court Judge T. Glenn Ellington is on a motion to move the trial for the alleged shooter, 17-year-old Estevan Montoya, to Los Alamos.

The Aug. 1, 2020 fatal shooting of White, 18, a Santa Fe High School athlete bound for the Lobos basketball team, quickly captured the public's attention, including significant media coverage of the ensuing court hearings.

According to Montoya's defense lawyer Dan Marlowe, the volume and tone of much of that coverage, White's status as a "hometown hero" and "vastly popular basketball player," as well as the debate over whether Montoya is a part of a violent street gang, leaves Montoya with little to no chance of receiving a fair trial in Santa Fe.

Marlowe has petitioned Ellington to move the case to Los Alamos in a bid to have his arguments heard more clearly—including that Montoya did shoot White, but in self defense, at a house party in Chupadero in the wee hours of the morning.

Prosecutors have charged Montoya with first-degree murder, tampering with evidence, unlawful carrying of a handgun by a person under 19 years old and negligent use of a deadly weapon.

"Every time there was a basketball game here, [J.B.] would be in the paper, the sports section," Marlowe tells SFR. "Los Alamos, they don't care what happens in Santa Fe. They don't have gangs up there. They don't know who J.B. White is. They're real precise people up there. It's hard to pull the wool over their eyes."

The state filed a lengthy response to Marlowe's motion, insisting that Santa Fe is the best place to have the trial.

But there's even more for Ellington to deal with at the hearing, scheduled for 10 am, March 4 as well.

Marlowe has also asked the court to exclude the state's witnesses and to release Montoya from custody immediately as a sanction against prosecutors for what he claims is an excessive witness list—156 names in all. A victory on any of these requests could give Montoya a significant leg up in the case.

Montoya's defense has constitutional hurdles to overcome in order to prove that his trial should be moved out of Santa Fe. In the motion filed in December, Marlowe argues that White is not as well known or popular in Los Alamos and that the state has "shown its deference to the community" by overcharging Montoya. Marlowe also mentions Montoya's alleged connection to what police and prosecutors have described as a "youth gang" called the Southside Goons, and argues that it "incites" Santa Feans.

Montoya was standing right next to his friend, Ivan "Money Mondo" Perez, when the teenager was shot and killed on the Southside in the parking lot of the Bluffs at Tierra Contenta last July—a month before the party where White was shot. Friends of Montoya and Perez, both of whom belonged to the Southside Goons, tell SFR that the group is not a gang, but a music group, and that they have been unfairly characterized by local law enforcement as participating in organized crime.

"Estevan, he's had a pretty rough upbringing, he hasn't had a real good family life; he's just had some not good exposure and he's come out remarkably well considering what his life's been like," Marlowe says. "But I certainly don't like the fact that he's hanging out with people who are doing rap and taking on a gang name when they're not even a gang, they're a music group....They're kids, Jesus, they don't know what guns do. They don't know how much damage a gun can do to somebody."

Chief Deputy District Attorney Blake Nichols refutes Marlowe's main claims. In the state's response, Nichols argues that there is no evidence that there has been biased pretrial publicity in the media and no evidence that the state is deferring to community outcry in charging Montoya with first-degree murder.

"The whole premise is that the community where the crime occurred is the proper community to hear and decide the case," Nichols says. "We don't know if a jury of 12 people would be biased because we haven't gotten to that point yet....We think there are enough folks in Santa Fe County who are open-minded enough and would be unbiased enough that they could hear the case and decide it properly."

The state also argues that Los Alamos is in the same judicial district as Santa Fe and that the much smaller town is in the same "media market" as the City Different.

Maryam Ahranjani, a criminal law professor at the University of New Mexico, concedes that the "accessibility" of information is much different now than when the Founding Fathers ratified the Sixth Amendment (the right to a speedy and public trial by an impartial jury), but that the original idea of that section of the Constitution

stemmed from the belief trials are best held in the community in which they occurred.

"Certainly judges are willing to change venues sometimes, consistent with that original idea that the local community is what defines the crime and so they're the ones who should determine whether this individual breached the norms and expectations of that community," Ahranjani says. "The idea is that they're offenses against a community, they're breaches of community trust, of community expectations, of shared norms. And so it makes sense for the community to make a decision about a person's guilt or innocence."

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