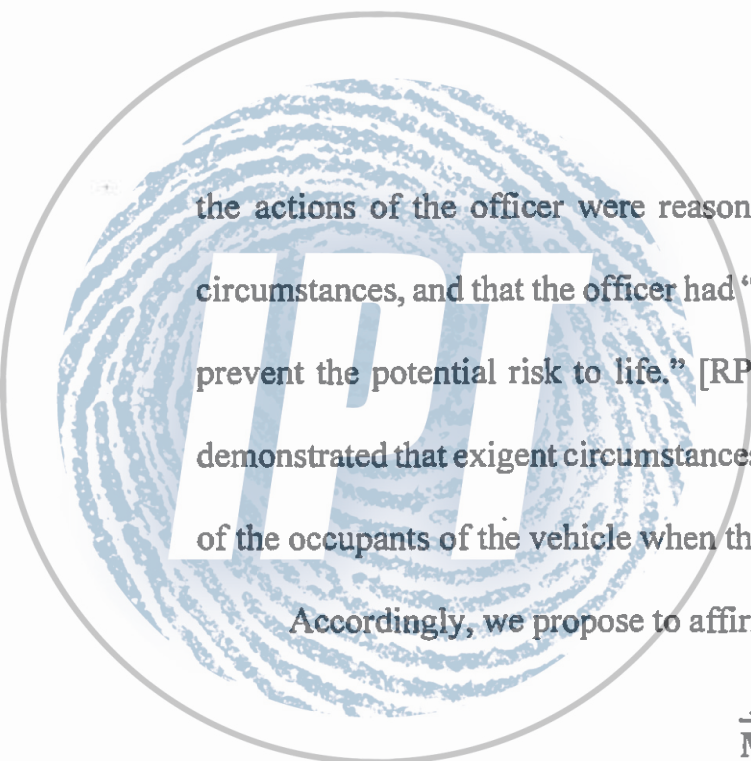


State v. Arredondo, 1997-NMCA-081, ¶ 16, 123 N.M. 628, 944 P.2d 276, *overruled on other grounds by State v. Steinzig*, 1999-NMCA-107, ¶ 16, 127 N.M. 752, 987 P.2d 409. In *Arredondo*, this Court held that the officer was justified in conducting a protective search “based on the reasonable suspicion that Defendant had recently used a handgun to commit an aggravated assault.” *Id.* In *Garcia*, the court determined that the officer had reasonable suspicion that the suspect was dangerous due to his aggressive behavior and armed due to seeing a gun in his vehicle. *Id.* “If the police officers have information indicating not only that a gun is on the premises but also that defendant is likely to use it, exigent circumstances requiring swift action to prevent imminent danger to life exists.” *State v. Attaway*, 1992-NMCA-043, ¶ 12, 114 N.M. 83, 835 P.2d 81, *aff’d*, 1994-NMSC-011, ¶ 12, 117, N.M. 141, 870 P.2d 103.

In the present case, the officer was encountering an individual whom he believed was likely to be in possession of weapons, who was a suspect in a shooting, and whom he believed had a warrant or would have one soon for the shooting. [RP 127] From the officer’s knowledge of the driver’s involvement in a shooting and likelihood of possession of weapons, we propose to conclude the officer had a reasonable belief that the driver could be both armed and dangerous. The officer also believed the driver’s sudden turn toward the console could be a reach for a weapon, and thus potentially dangerous in that moment. [RP 128] The district court found that



the actions of the officer were reasonable and justified under the totality of the circumstances, and that the officer had “articulated facts that justified swift action to prevent the potential risk to life.” [RP 129] Therefore, the State appears to have demonstrated that exigent circumstances existed that justified the warrantless seizure of the occupants of the vehicle when the officer pointed his weapon at the driver.

Accordingly, we propose to affirm.



MICHAEL E. VIGIL, Judge