

# State v. Marcial

**Case Number**

A-18-0016

**Court Number**

Dawson

**Call Date**

November 7, 2018

**Case Time**

1:00 PM

**Case Audio**

Download Audio

**Case Summary**

*District Court of Dawson County, Judge James E. Doyle IV*

**Attorney for Appellant:** Bronson J. Malcom (Malcom & Nelsen Law Office)

**Attorney for Appellee:** Douglas J. Peterson and Melissa R. Vincent (Office of the Nebraska Attorney General)

**Criminal Action:** Sufficiency of the Evidence

**Action Taken by Trial Court:** After a bench trial, the district court found Marcial guilty of both terroristic threats and use of a firearm to commit a felony. The court sentenced Marcial to imprisonment for 12 to 36 months for terroristic threats and to a consecutive term of imprisonment of 5 to 5 years for use of a firearm to commit a felony.

**Assignments of Error:** Marcial assigns, restated, that the district court erred in finding the record contained sufficient evidence to support his conviction for use of a firearm to commit a felony. He argues that no rational trier of fact could have convicted him of the crime beyond a reasonable doubt because the crime's only witness could not identify whether Marcial wielded a shotgun or pellet gun during the offense.

**Case Location**

Kearney

**Court Type**

District Court

**Schedule Code**

A2

**Panel Text**

Moore, Chief Judge, Riedmann and Welch, Judges

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