

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico
Filed 1/4/2023 11:12 AM

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

5 **EMMANUEL OLIVAS,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY**

8 **Lisa B. Riley, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 MJ Edge, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **BOGARDUS, Judge.**

18 {1} Defendant appeals the revocation of his probation. In this Court's notice of
19 proposed disposition, we proposed to summarily affirm. Defendant filed a
20 memorandum in opposition, which we have duly considered. Remaining
21 unpersuaded, we affirm.

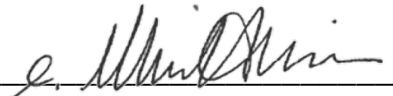
1 {2} In his memorandum in opposition, Defendant maintains that the State failed
2 to prove Defendant willfully violated the terms of his probation. Defendant,
3 however, has not asserted any new facts, law, or argument that persuade us that our
4 notice of proposed disposition was erroneous. *See Hennessy v. Duryea*, 1998-
5 NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly held
6 that, in summary calendar cases, the burden is on the party opposing the proposed
7 disposition to clearly point out errors in fact or law.”); *State v. Mondragon*, 1988-
8 NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to
9 a summary calendar notice must come forward and specifically point out errors of
10 law and fact, and the repetition of earlier arguments does not fulfill this requirement),
11 *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-
12 031, ¶ 3, 297 P.3d 374.

13 {3} Accordingly, for the reasons stated in our notice of proposed disposition and
14 herein, we summarily affirm the district court’s revocation order.

15 {4} **IT IS SO ORDERED.**

16 
17 **KRISTINA BOCCARDUS, Judge**

1 **WE CONCUR:**

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3 **J. MILES HANISEE, Chief Judge**

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5 _____
5 **ZACHARY A. IVES, Judge**