


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

2 **STATE OF NEW MEXICO ex rel.**
3 **CHILDREN, YOUTH & FAMILIES**
4 **DEPARTMENT,**

5 Petitioner-Appellee,

Court of Appeals of New Mexico
Filed 1/9/2023 1:01 PM



Mark Reynolds

6 v.

No. A-1-CA-40647

7 **SAMANTHA E.,**

8 Respondent-Appellant,

9 **and**

10 **BENJAMIN E.,**

11 Respondent,

12 **IN THE MATTER OF SAMUEL E.,**

13 **LIAM E., REYNNA E., and**

14 **CHRISTOPHER E.,**

15 Children.

16 **APPEAL FROM THE DISTRICT COURT OF MORA COUNTY**

17 **Floripa Gallegos, District Court Judge**

18 Children, Youth and Families Department

19 Mary McQueeney, Chief Children's Court Attorney

20 Santa Fe, NM

21 Kelly P. O'Neill, Children's Court Attorney

22 Albuquerque, NM

23 for Appellee

1 Cravens Law LLC
2 Richard H. Cravens, IV
3 Albuquerque, NM

4 for Appellant

5 David Silva, Attorney at Law
6 David R. Silva
7 Las Vegas, NM

8 Guardian Ad Litem

9 **MEMORANDUM OPINION**

10 **HANISEE, Chief Judge.**

11 {1} Respondent (Mother) appeals the district court’s order terminating her
12 parental rights. In this Court’s notice of proposed disposition, we proposed to
13 summarily affirm. Mother filed a memorandum in opposition to our proposed
14 summary disposition, which we have duly considered. Unpersuaded, we affirm.

15 {2} In her memorandum in opposition, Mother continues to pursue the appellate
16 issues raised in her docketing statement. [MIO 2-3] However, Mother has not
17 presented any additional facts, authority, or argument that persuades this Court that
18 our notice of proposed disposition was erroneous as to any of the issues raised. *See*
19 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
20 courts have repeatedly held that, in summary calendar cases, the burden is on the
21 party opposing the proposed disposition to clearly point out errors in fact or law.”);
22 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating


1 that a party responding to a summary calendar notice must come forward and
2 specifically point out errors of law and fact, and the repetition of earlier arguments
3 does not fulfill this requirement), *superseded by statute on other grounds as stated*
4 *in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374.

5 {3} In addition, to the extent Mother implies a remand may be warranted in this
6 case [MIO 14-15], we disagree. Mother’s memorandum “questions whether CYFD
7 met its burden of investigating the suitability of family members for
8 placement/guardianship/adoption” [MIO 15], but fails to respond to the specific
9 concerns identified in our calendar notice regarding this issue, including the absence
10 of relevant facts and the failure to explain Mother’s claim of error given the
11 circumstances of this case, where some Children were placed in relative foster care.
12 [CN 9] *See Hennessy*, 1998-NMCA-036, ¶ 24; *Mondragon*, 1988-NMCA-027, ¶ 10;
13 *see also Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111
14 N.M. 6, 800 P.2d 1063 (“The presumption upon review favors the correctness of the
15 trial court’s actions. [An a]ppellant must affirmatively demonstrate its assertion of
16 error.”).

17 {4} Accordingly, for the reasons discussed herein and in our notice of proposed
18 disposition, we affirm.

1 {5} IT IS SO ORDERED.

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3



J. MILES HANISEE, Chief Judge

4 WE CONCUR:

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6 _____
JENNIFER L. ATTREP, Judge

7 
8 _____
ZACHARY A. IVES, Judge