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

Court of Appeals of New Mexico

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2 **BRYCE FRANKLIN,**

3 Plaintiff-Appellant,



Cynthia A. Hernandez-Madrid  
Acting Chief Clerk

4 v.

**No. A-1-CA-40979**

5 **THE GEO GROUP, NEW MEXICO**  
6 **DEPARTMENT OF CORRECTIONS,**  
7 **and KEVIN L. NAULT,**

8 Defendants-Appellees.

9 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

10 **Maria Sanchez-Gagne, District Court Judge**

11 Bryce Franklin  
12 Las Cruces, NM

13 Pro Se Appellant

14 YLAW, P.C.  
15 Michael S. Jahner  
16 Albuquerque, NM

17 for Appellee The Geo Group

18 Ortiz & Zamora, Attorneys at Law, LLC  
19 Tony F. Ortiz  
20 Eugene (Geno) I. Zamora  
21 Jessica R. Tarrazas  
22 Michael R. Jones  
23 Santa Fe, NM

24 for Appellees New Mexico Department of Corrections  
25 and Kevin L. Nault

1 **MEMORANDUM OPINION**

2 **MEDINA, Judge.**

3 {1} Plaintiff Bryce Franklin, who is self-represented, appeals from a district court  
4 order granting the motion for summary judgment in favor of Defendants New  
5 Mexico Corrections Department and Kevin Nault (collectively, State Defendants).  
6 We issued a calendar notice proposing to affirm. Plaintiff has responded with a  
7 memorandum in opposition. We affirm.

8 {2} “Summary judgment is appropriate where there are no genuine issues of  
9 material fact and the movant is entitled to judgment as a matter of law.” *Self v. United*  
10 *Parcel Serv., Inc.*, 1998-NMSC-046, ¶ 6, 126 N.M. 396, 970 P.2d 582. “We review  
11 these legal questions de novo.” *Id.*

12 {3} Here, Plaintiff’s Inspection of Public Records Act complaint sought  
13 documents from State Defendants related to contracts involving the Lea County  
14 Corrections Facility. [RP 1] State Defendants’ amended cross-motion for summary  
15 judgment indicated that the requisite statutory provisions were complied with, and  
16 all materials in the New Mexico Corrections Department’s custody had been made  
17 available to Plaintiff. [RP 146] Attached to the summary judgment motion were  
18 affidavits and documents that supported the State Defendants’ assertion of  
19 compliance. [RP 151-61] This was a sufficient showing for summary judgment. *See*  
20 *Roth v. Thompson*, 1992-NMSC-011, ¶ 17, 113 N.M. 331, 825 P.2d 1241 (“The

1 movant need only make a prima facie showing that he is entitled to summary  
2 judgment.”).

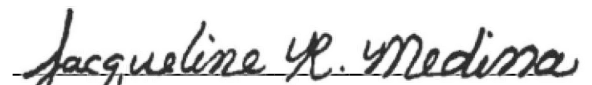
3 {4} Plaintiff responded by arguing that one of the affidavits was made in bad faith,  
4 and that some of the materials were not available in the library. [RP 179, 188]  
5 Plaintiff’s response was not supported by any evidence tending to establish that  
6 documents actually in the custody of the New Mexico Corrections Department were  
7 being withheld. Stated differently, Plaintiff’s affidavit makes no showing that he has  
8 personal knowledge that contradicts the Department’s affidavit [RP 188] and as a  
9 result, his unsupported assertions are insufficient to create a genuine issue of  
10 material fact on the central issue: whether State Defendants’ complied with relevant  
11 statutory provisions by producing all materials in the New Mexico Corrections  
12 Department’s custody. *See generally Deutsche Bank Nat’l Tr. Co. v. MacLaurin*,  
13 2015-NMCA-061, ¶ 12, 350 P.3d 1201 (rejecting an argument advanced on appeal  
14 in opposition to an award of summary judgment, where the only factual support in  
15 the record was the defendants’ own assertion).

16 {5} In Plaintiff’s memorandum in opposition, he breaks his argument into three  
17 points, which may be consolidated into two general points. First, he claims that  
18 dismissal of the State Defendants was improper because the State attempted to pass  
19 on disclosure duties to Geo Corp. However, regardless of whatever role Geo played  
20 in this matter, the State Defendants submitted an affidavit of the Correction

1 Department's designated records custodian for this case. [RP 153] She stated under  
2 oath that she was tasked with ensuring compliance with IPRA, and that she had  
3 turned over all requested documents that were in the State's possession. [RP 153-  
4 154] Finally, Plaintiff's remaining argument is that the State Defendants failed to  
5 establish a prima facie showing that they were entitled to summary judgment.  
6 Plaintiff characterizes the affidavits in support of summary judgment as vague and  
7 inadmissible. We disagree. Our review of the State Defendants' undisputed  
8 affidavits support the grant of summary judgment in this case. Although Plaintiff  
9 claimed that some of the requested materials were not available in the library at the  
10 time he went to review them, this does not dispute the State Defendants' affidavit  
11 that all materials in the State's possession had been turned over. A party opposing  
12 summary judgment may not simply argue that evidentiary facts requiring a trial on  
13 the merits may exist, "nor may [a party] rest upon the allegations of the complaint."  
14 *Dow v. Chilili Coop. Ass'n*, 1986-NMSC-084, ¶ 13, 105 N.M. 52, 728 P.2d 462.

15 {6} For the reasons set forth above, we affirm.

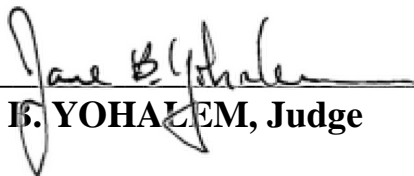
16 {7} **IT IS SO ORDERED.**

17   
18 **JACQUELINE R. MEDINA, Judge**

1 **WE CONCUR:**

2 

3 **SHAMMARA H. HENDERSON, Judge**

4 

5 **JANE B. YOHALEM, Judge**