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

Court of Appeals of New Mexico

2 Filed 12/10/2024 11:20 AM

3 **STATE OF NEW MEXICO,**

4 Plaintiff-Appellee,



Ramon J. Maestas
Chief Clerk

5 v.

No. A-1-CA-41968

6 **ROGER JONATHAN JOSEPH SISNEROS**

7 **a/k/a JONATHAN SISNEROS**

8 **a/k/a JONATHAN R. SISNEROS**

9 **a/k/a ROGER SISNEROS**

10 **a/k/a ROGER JONATHAN SISNEROS,**

11 Defendant-Appellant.

12 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

13 **Courtney Weeks, District Court Judge**

14 Raúl Torrez, Attorney General

15 Santa Fe, NM

16 for Appellee

17 Bennett J. Baur, Chief Public Defender

18 Santa Fe, NM

19 Mark A. Peralta-Silva, Assistant Appellate Defender

20 Albuquerque, NM

21 for Appellant

22 **MEMORANDUM OPINION**

23 **WRAY, Judge.**

24 {1} This matter was submitted to this Court on the brief in chief pursuant to the

25 Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and

Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No.

1 2022-002, effective November 1, 2022. Having considered the brief in chief,
2 concluding the briefing submitted to this Court provides no possibility for reversal,
3 and determining that this case is appropriate for resolution on Track 1 as defined in
4 that order, we affirm for the following reasons.

5 {2} Defendant appeals from his convictions for assault against a household
6 member, criminal damage to property (under \$1,000), and third-degree child abuse.
7 [RP 161-65] Defendant first argues that his right to due process was violated when
8 he was not provided discovery pursuant to Rule 5-501(A) NMRA. [BIC 1] “This
9 Court reviews a trial court’s decision with regard to discovery for an abuse of
10 discretion.” *State v. McDaniel*, 2004-NMCA-022, ¶ 6, 135 N.M. 84, 84 P.3d 701.
11 An abuse of discretion occurs when “the decision below was against logic and not
12 justified by reason.” *Id.*

13 {3} Defendant argues that the State violated Rule 5-501(A) by failing to
14 “personally deliver discovery to him” within ten days after he was arraigned. [BIC
15 1, 9] Defendant asserts that his trial counsel neither raised any discovery issues
16 below nor claimed that the State failed to comply with Rule 5-501. [BIC 9]
17 Defendant’s trial counsel apparently offered Defendant copies of police reports, but
18 “[i]t is unclear what other discovery was in counsel’s possession and what attempts
19 were made to provide access to” Defendant. [*Id.*] As such, we do not interpret

1 Defendant’s argument to be that his counsel did not receive discovery required to be
2 produced by Rule 5-501(A).

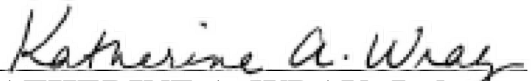
3 {4} Our Rules of Criminal Procedure require service on a party’s attorney. Rule
4 5-103(B) NMRA provides in part that “[w]henver under these rules service is
5 required or permitted to be made upon a party represented by an attorney, the service
6 shall be made upon the attorney unless service upon the party is ordered by the
7 court.” Defendant does not assert that the district court ordered the State to serve
8 discovery on him personally. Consequently, we conclude the district court did not
9 abuse its discretion.

10 {5} Next, Defendant argues that the State violated his right to a speedy trial.
11 [BIC 1] However, Defendant acknowledges that he “did not raise a speedy trial
12 argument below and thus the district court did not conduct a *Barker* analysis.” [BIC
13 10] “If a defendant does not raise a constitutional speedy trial issue before the district
14 court, there is nothing for an appellate court to review.” *State v. Collier*, 2013-
15 NMSC-015, ¶ 41, 301 P.3d 370; *see State v. Lopez*, 2008-NMCA-002, ¶ 25, 143
16 N.M. 274, 175 P.3d 942 (“It is well-settled law that in order to preserve a speedy
17 trial argument, [the defendant] must properly raise it in the lower court and invoke
18 a ruling.”); *State v. Rojo*, 1999-NMSC-001, ¶ 52, 126 N.M. 438, 971 P.2d 829
19 (holding that a motion to protect speedy trial rights requires the weighing of factors

1 that are factually based and fact-finding is a function of the district court). Therefore,
2 we decline to consider Defendant's speedy trial claim.

3 {6} Accordingly, we affirm Defendant's convictions.

4 {7} **IT IS SO ORDERED.**

5 
6 **KATHERINE A. WRAY, Judge**

7 **WE CONCUR:**

8 
9 **JENNIFER L. ATTREP, Chief Judge**

10 
11 **J. MILES HANISEE, Judge**