


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

2 **RICKY KURT WASSENAAR,**

Court of Appeals of New Mexico
Filed 1/21/2025 12:31 PM

3 Plaintiff-Appellant,



Ramon J. Maestas
Chief Clerk

4 v.

No. A-1-CA-41860

5 **NEW MEXICO CORRECTIONS**
6 **DEPARTMENT,**

7 Defendant-Appellee.

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

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

10 Ricky K. Wassenaar
11 Tucson, AZ

12 Pro Se Appellant

13 Allen Law Firm, LLC
14 Michelle Marie Lalley Blake
15 Albuquerque, NM

16 for Appellee

17 **MEMORANDUM OPINION**

18 **WRAY, Judge.**

19 {1} Plaintiff appeals from the district court's order granting Defendant's motion
20 for summary judgment. In this Court's notice of proposed disposition, we proposed
21 to summarily reverse. Defendant has filed no memorandum in opposition, and the
22 time for doing so has passed. Plaintiff filed a memorandum in support (MIS) in
23 which he states his agreement with our proposed disposition and further addresses

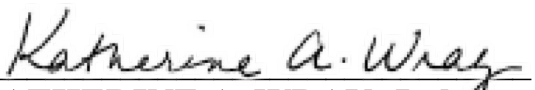
1 two of the issues raised in his docketing statement, reiterating his assertion as to one
2 such issue and clarifying his assertion as to the other. Unpersuaded by Plaintiff's
3 requests that we modify our proposed disposition in light of his MIS, we rely on the
4 reasoning set out in this Court's notice of proposed disposition and, along with
5 additional explanation contained herein regarding Plaintiff's clarified assertion,
6 reverse on that basis.

7 {2} In his MIS, Plaintiff first maintains that the district court erred in denying his
8 motion to correct the filing date of his complaint. [MIS 3] Plaintiff has not presented
9 in his MIS any facts, authority, or argument that persuades this Court of any error in
10 our reasoning and conclusion on this issue as set forth in our proposed disposition.
11 Plaintiff's MIS next addresses his assertions regarding Rule 5-802(C)(2) NMRA,
12 which sets forth limitations pertaining to petitions for writs of habeas corpus
13 challenging the conditions of confinement. On this issue, Plaintiff now clarifies the
14 assertion he intended to convey in his docketing statement: that Rule 5-802(C)(2)
15 applies to all civil actions initiated by the New Mexico Corrections Department
16 (NMCD) inmates while incarcerated. Based on this clarification, Plaintiff reiterates
17 his assertion that the statute of limitations for filing a complaint against NMCD
18 should be tolled by Rule 5-802(C)(2)'s exhaustion requirement. [MIS 3-4] Plaintiff
19 does not support this clarified assertion with citation to relevant authority, suggesting
20 instead that the issue is novel. [MIS 4] Despite such suggestion, we emphasize that

1 this Court will not consider propositions that are unsupported by citation to
2 authority. *See ITT Educ. Servs., Inc. v. N.M. Tax'n & Revenue Dep't*, 1998-NMCA-
3 078, ¶ 10, 125 N.M. 244, 959 P.2d 969; *see also Curry v. Great Nw. Ins. Co.*, 2014-
4 NMCA-031, ¶ 28, 320 P.3d 482 (“Where a party cites no authority to support an
5 argument, we may assume no such authority exists.”). To the extent that Plaintiff’s
6 clarified assertion on this issue constitutes opposition to our proposed disposition,
7 we conclude that he has failed to identify any factual or legal error therein. *See*
8 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
9 courts have repeatedly held that, in summary calendar cases, the burden is on the
10 party opposing the proposed disposition to clearly point out errors in fact or law.”).

11 {3} For the reasons stated in our notice of proposed disposition and herein, we
12 reverse the district court’s order granting Defendant’s motion for summary judgment
13 and remand this case to the district court for proceedings consistent with this opinion.

14 {4} **IT IS SO ORDERED.**

15 
16 **KATHERINE A. WRAY, Judge**

17 **WE CONCUR:**

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

20 
21 **ZACHARY A. IVES, Judge**