

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

2 **ANDY BOURDON, and**  
3 **DAMIAN BOURDON, a minor**  
4 **child,**

5 Plaintiffs-Appellants,

Court of Appeals of New Mexico  
Filed 2/17/2025 10:40 AM

  
Ramon J. Maestas  
Chief Clerk

6 v.

**No. A-1-CA-42196**

7 **MAYOR JOHN RAMON VIGIL,**  
8 **CITY OF ESPAÑOLA, N.M.,**  
9 **MAYOR ALAN WEBBER, and**  
10 **CITY OF SANTA FE, N.M.,**

11 Defendants-Appellees.

12 **Consolidated with**

13 **LAURA PORTER, ALEXANDER**  
14 **ANDY RAIN CLOUD, and TURQUOISE**  
15 **BOURDON, minor children,**

16 Plaintiffs-Appellants,

17 v.

18 **MAYOR JOHN RAMON VIGIL, CITY**  
19 **OF ESPANOLA, N.M., MAYOR ALAN**  
20 **WEBBER, and CITY OF SANTA FE,**  
21 **N.M.,**

22 Defendants-Appellees.

23 **APPEAL FROM THE DISTRICT COURT OF RIO ARRIBA COUNTY**  
24 **Kathleen McGarry Ellenwood, District Court Judge**

1 Andy Bourdon and  
2 Española, NM

3 Laura Porter  
4 Española, NM

5  
6 Pro Se Appellants

7 YLAW, P.C.  
8 Michael S. Jahner  
9 Albuquerque, NM

10 Long Komer & Associates PA  
11 Gabriela M. Delgadillo  
12 Santa Fe, NM

13 for Appellees Mayor John Ramon Vigil  
14 and Mayor Alan Webber

15 **MEMORANDUM OPINION**

16 **HANISEE, Judge.**

17 {1} Plaintiffs, self-represented litigants, appeal from the district court’s dismissal  
18 of their case. We issued a calendar notice proposing to affirm. Plaintiffs have filed a  
19 memorandum in opposition, which we have duly considered. Unpersuaded, we  
20 affirm.

21 {2} Plaintiffs continue to challenge the district court’s decision, but they provide  
22 no new facts or authority relevant to this case and the issues raised on appeal. A  
23 party responding to a summary calendar notice must come forward and specifically  
24 point out errors of law and fact, and the repetition of earlier arguments does not  
25 fulfill this requirement. *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M.

1 754, 955 P.2d 683 (“Our courts have repeatedly held that, in summary calendar  
2 cases, the burden is on the party opposing the proposed disposition to clearly point  
3 out errors in fact or law.”); *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M.  
4 421, 759 P.2d 1003 (stating that “[a] party responding to a summary calendar notice  
5 must come forward and specifically point out errors of law and fact” and the  
6 repetition of earlier arguments does not fulfill this requirement), *superseded by*  
7 *statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d  
8 374. References to investigations, litigation, and facts outside the record are  
9 similarly insufficient. *See Kepler v. Slade*, 1995-NMSC-035, ¶ 13, 119 N.M. 802,  
10 896 P.2d 482 (“Matters outside the record present no issue for review.” (internal  
11 quotation marks and citation omitted)).

12 {3} Insofar as Plaintiffs continue to argue that, in granting Defendants’ motion for  
13 summary judgment, the district court failed to consider Plaintiffs’ evidence, we  
14 remain unpersuaded. Plaintiffs continue to point to their “hand written statements”  
15 and “numerous reports” made to the FBI, the Department of Justice, the Navajo  
16 Nation, the New Mexico attorney general, senators, and legislative representatives  
17 as proof of their “presentation of evidence.” [MIO 1-2] As discussed in our calendar  
18 notice, Plaintiffs have failed to identify admissible evidence demonstrating the  
19 existence of any disputed material fact that would preclude summary judgment, and  
20 they have not identified any legal authority to indicate it was improper for the district

1 court to grant Defendants judgment as a matter of law. [CN 6-7] *See id.*; *Bank of*  
2 *N.Y. Mellon v. Lopes*, 2014-NMCA-097, ¶ 6, 336 P.3d 443 (“Summary judgment is  
3 appropriate where there are no genuine issues of material fact and the movant is  
4 entitled to judgment as a matter of law.” (internal quotation marks and citation  
5 omitted)); *see also ITT Educ. Servs., Inc. v. Tax’n & Revenue Dep’t*, 1998-NMCA-  
6 078, ¶ 10, 125 N.M. 244, 959 P.2d 969 (refusing to consider a proposition that was  
7 unsupported by citation to authority); *cf. State v. Ortiz*, 2009-NMCA-092, ¶ 32, 146  
8 N.M. 873, 215 P.3d 811 (refusing to address undeveloped, conclusory arguments,  
9 reasoning that “[a] party cannot throw out legal theories without connecting them to  
10 any elements and any factual support for the elements” (internal quotation marks  
11 and citation omitted)). We therefore conclude Plaintiffs have failed to demonstrate  
12 the district court erred in granting summary judgment against Plaintiffs. *See*  
13 *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6,  
14 800 P.2d 1063.

15 {4} Additionally, Plaintiffs continue to assert the district court judge was biased  
16 against them, as evidenced by the fact that the district court “consistently ruled  
17 against” them. [MIO 12] As noted in our proposed disposition, however, “adverse  
18 rulings do not constitute a valid basis for disqualification based on personal bias.”  
19 *Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Reg. Comm’n*, 2010-  
20 NMSC-013, ¶ 42, 148 N.M. 21, 229 P.3d 494; *see United Nuclear Corp. v. Gen.*

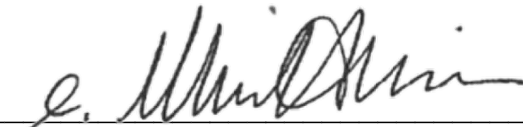
1 *Atomic Co.*, 1980-NMSC-094, ¶ 425, 96 N.M. 155, 629 P.2d 231 (“Rulings adverse  
2 to a party do not necessarily evince a personal bias or prejudice on the part of the  
3 judge.”). [CN 8-9] We therefore decline to further address Plaintiffs’ continued  
4 assertions of bias. *See State ex rel. Bardacke v. Welsh*, 1985-NMCA-028, ¶ 63, 102  
5 N.M. 592, 698 P.2d 462 (holding that a judge need not disqualify himself when the  
6 movant cannot demonstrate that the judge is personally embroiled in the case, and  
7 when the movant raises no legitimate reasons for disqualification).

8 {5} Plaintiffs also continue to argue that the district court’s delay in closing the  
9 case amounted to error. In support, Plaintiffs suggest they were prejudiced by the  
10 delay because additional cases were filed against them while the case was on appeal  
11 in this Court. [MIO 13] Insofar as Plaintiffs rely on facts outside the record to support  
12 their assertion of prejudice, we are unpersuaded. *See Kepler*, 1995-NMSC-035, ¶ 13.  
13 Moreover, Plaintiffs have failed to explain how the delay contributed in any way to  
14 cases later being filed against them, or how they have been prejudiced by the  
15 existence of those cases. *See Deaton v. Gutierrez*, 2004-NMCA-043, ¶ 31, 135 N.M.  
16 423, 89 P.3d 672 (“[A]n assertion of prejudice is not a showing of prejudice, and in  
17 the absence of prejudice, there is no reversible error.” (alteration, internal quotation  
18 marks, and citation omitted)). Although Plaintiffs may have separate ongoing cases  
19 that could perhaps encompass facts and circumstances that Plaintiffs would like to

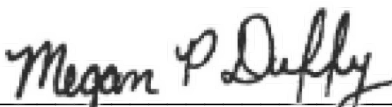
1 raise here, those matters are not before us in this appeal. *See Kepler*, 1995-NMSC-  
2 035, ¶ 13.


3 {6} Plaintiffs have failed to meet their burden on appeal or meaningfully respond  
4 to our proposed summary disposition. *See Hennessy*, 1998-NMCA-036, ¶ 24;  
5 *Mondragon*, 1988-NMCA-027, ¶ 10; *see also Clayton v. Trotter*, 1990-NMCA-078,  
6 ¶ 12, 110 N.M. 369, 796 P.2d 262 (refusing to entertain arguments for which  
7 pertinent parts of the brief were unintelligible). Accordingly, we are unpersuaded  
8 that our notice of proposed disposition was erroneous and affirm for the reasons  
9 stated therein. [CN 7-10]

10 {7} **IT IS SO ORDERED.**

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12 \_\_\_\_\_  
**J. MILES HANISEE, Judge**

13 **WE CONCUR:**

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15 \_\_\_\_\_  
**MEGAN P. DUFFY, Judge**

16   
17 \_\_\_\_\_  
**JANE B. VOHALEM, Judge**