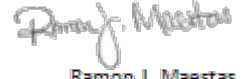


1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico

Filed 2/27/2025 9:49 AM



Ramon J. Maestas  
Chief Clerk

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

**No. A-1-CA-41952**

5 **CRYSTAL LUSSIER,**

6 Defendant-Appellant.

7 **APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO**  
8 **COUNTY**

9 **Renee Torres, Metropolitan Court Judge**

10 Raúl Torrez, Attorney General

11 Santa Fe, NM

12 for Appellee

13 Bennett J. Baur, Chief Public Defender

14 Joelle N. Gonzales, Assistant Appellate Defender

15 Santa Fe, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **HENDERSON, Judge.**

19 {1} Defendant appeals from her judgment and sentence, after a bench trial, of one  
20 count of driving while under the influence (first offense) and one count of open  
21 container. This Court issued a calendar notice proposing to affirm. Defendant filed  
22 a memorandum in opposition, which we have duly considered. Unpersuaded, we  
23 affirm.

1 {2} Defendant continues to maintain, based on the same theories, that there was  
2 insufficient evidence to support her conviction of driving while under the influence  
3 because there was insufficient evidence to establish she drove the car. [MIO 7-8]  
4 Our notice of proposed disposition proposed to affirm based on circumstantial  
5 evidence and Defendant’s admission to the arresting officer. [CN 2] Defendant does  
6 not direct this Court to any new fact, law, or argument that persuades us that our  
7 notice of proposed disposition was incorrect. [MIO 7-8] *See Hennessy v. Duryea*,  
8 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly  
9 held that, in summary calendar cases, the burden is on the party opposing the  
10 proposed disposition to clearly point out errors in fact or law.”); *State v. Mondragon*,  
11 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party  
12 responding to a summary calendar notice must come forward and specifically point  
13 out errors of law and fact, and the repetition of earlier arguments does not fulfill this  
14 requirement), *superseded by statute on other grounds as stated in State v. Harris*,  
15 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore remain unpersuaded and hold  
16 that there was sufficient evidence to support Defendant’s conviction.

17 {3} For the reasons stated in our notice of proposed disposition and herein, we  
18 affirm.

1 {4} IT IS SO ORDERED.

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3 \_\_\_\_\_  
4 SHAMMARA H. HENDERSON, Judge

4 WE CONCUR:

5   
6 \_\_\_\_\_  
7 KRISTINA BOGARDUS, Judge

7   
8 \_\_\_\_\_  
9 GERALD E. BACA, Judge