

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

Court of Appeals of New Mexico
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2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-42982

5 **CRAIG V. HUNTER,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY**

8 **Fred Van Soelen, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Berg & Walsh, P.A.

13 Brian Parrish

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **ATTREP, Judge.**

18 {1} Defendant appeals from the district court's order revoking his probation. This
19 Court issued a calendar notice proposing to affirm. Defendant filed a memorandum
20 in opposition, which we have duly considered. Unpersuaded, we affirm.

21 {2} Defendant maintains that the district court violated his due process rights by
22 allowing the State and a witness, Los Angeles Police Department Officer Felix, to

1 appear via video at his probation revocation proceeding [MIO 5-8], and there was
2 insufficient evidence to support Defendant’s probation violation because the State
3 failed to properly identify Defendant. [MIO 9]

4 {3} This Court first proposed to conclude that the district court did not violate
5 Defendant’s due process rights by allowing the remote appearances. [SCN 1-5] We
6 proposed to conclude that “good cause” supported Officer Felix’s remote
7 testimony—Officer Felix’s “statements [were] not subjective, judgment-based
8 observations, but objective statements about routine facts where credibility of the
9 witness [is] less relevant to the truth-finding process; and Officer Felix’s statements
10 were corroborated by Defendant’s New Mexico probation officer”—such that
11 Officer Felix’s remote appearance did not deprive Defendant of due process. [SCN
12 2-3] *See State v. Guthrie*, 2011-NMSC-014, ¶¶ 40-41, 150 N.M. 84, 257 P.3d 904
13 (listing and discussing factors to consider whether there is “good cause” to allow
14 remote testimony in a probation revocation proceeding); *State v. Godinez*, 2025-
15 NMSC-005, ¶ 26, 563 P.3d 854 (same). We additionally proposed to conclude that
16 the State’s remote appearance did not violate Defendant’s due process rights because
17 the Ninth Judicial District Remote and Hybrid Hearings Plan¹ allowed the district
18 court to grant the State’s motion for remote appearance and there was no other

¹*See* Ninth Jud. Dist. Remote and Hybrid Hearings Plan 4-5 (July 12, 2023),
<https://ninthdistrict.nmcourts.gov/wp-content/uploads/sites/27/2024/09/RemoteAndHybridPlan.pdf>.

1 indication that the State’s remote appearance affected the proceedings. Our review
2 of the record proper showed “both parties examined all witnesses and presented
3 closing arguments without issue at Defendant’s probation revocation hearing.”

4 [SCN 4]

5 {4} Defendant now argues that we misapplied the *Guthrie* factors and
6 misunderstood the issue presented because “the veracity of [Officer] Felix’s
7 statements was the central issue,” particularly when the State presented no
8 corroborating evidence. [MIO 6-7] But as we explained in our proposed disposition,
9 Defendant only challenges the “veracity” of Officer Felix to the extent that
10 Defendant contests Officer Felix’s credibility and the difficulty of determining
11 credibility via remote testimony. Defendant’s argument focuses on the lack of
12 corroborating evidence and Officer Felix’s “visual identification over video that the
13 person on the screen was the one he arrested.” [MIO 6-7] But like Defendant’s
14 docketing statement, the memorandum does not challenge the substance of Officer
15 Felix’s testimony, only whether Officer’s Felix’s testimony alone was sufficient.

16 [MIO 6-7]

17 {5} Defendant also argues that we should find that the State’s remote appearance
18 violated his due process rights, like the district court’s remote appearance did in *State*
19 *v. Carver*, A-1-CA-40080, mem. op. ¶¶ 4, 7 (N.M. Ct. App. Oct. 12, 2023)
20 (nonprecedential). [MIO 8] Defendant’s argument that we should apply a

1 nonprecedential opinion to conclude that the State’s remote appearance violated due
2 process is unpersuasive. *See Eastland Fin. Serv. v. Mendoza*, 2002-NMCA-035, ¶
3 16, 132 N.M. 24, 43 P.3d 375 (“An unpublished opinion is written solely for the
4 benefit of the parties to the action and has no controlling precedential value.”).
5 Further, we disagree that having a party appear remotely is the same as the fact-
6 finder appearing remotely for a defendant’s probation revocation hearing. *See*
7 *Carver*, A-1-CA-40080, mem. op. ¶¶ 4, 7. Finally, as we explained above and in our
8 proposed disposition, the district court was within its authority to grant the State’s
9 request to appear remotely and the State’s remote appearance did not adversely
10 affect the proceedings. [SCN 4]

11 {6} This Court next proposed to conclude that sufficient evidence supported the
12 district court’s decision, specifically that the State properly identified Defendant.
13 [SCN 5-7] Officer Felix identified Defendant as the man he arrested in California
14 during his remote testimony, and Probation Officer Garcia additionally identified
15 Defendant—in person—through his testimony. [SCN 6-7] *See State v. Jimenez*,
16 2003-NMCA-026, ¶ 8, 133 N.M. 349, 62 P.3d 1231 (explaining that “identification
17 does not absolutely require in-court identification by a witness”), *rev’d on other*
18 *grounds*, 2004-NMSC-012, 135 N.M. 442, 90 P.3d 461.

19 {7} Defendant now argues that the evidence was insufficient “to prove to a
20 reasonable certainty that he was the individual arrested in California in June . . . 2025

1 and that the alleged violations occurred, based solely on [Officer] Felix’s remote
2 testimony.” [MIO 9] But as we explained in our notice of proposed disposition
3 [SCN 7], and as Defendant concedes in his memorandum [MIO 7, 9], “identification
4 does not absolutely require in-court identification by a witness.” *Jimenez*, 2003-
5 NMCA-026, ¶ 8. Additionally, Officer Felix’s testimony was not the only
6 identification of Defendant. Probation Officer Garcia similarly identified Defendant
7 during his in-person testimony at the probation revocation hearing. [SCN 6-7]

8 {8} Accordingly, Defendant has not directed this Court to any new fact, law, or
9 argument that persuades us that our notice of proposed disposition was incorrect.
10 *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
11 courts have repeatedly held that, in summary calendar cases, the burden is on the
12 party opposing the proposed disposition to clearly point out errors in fact or law.”);
13 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating
14 that “[a] party responding to a summary calendar notice must come forward and
15 specifically point out errors of law and fact,” and the repetition of earlier arguments
16 does not fulfill this requirement), *superseded by statute on other grounds as stated*
17 *in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore refer
18 Defendant to our previous analysis in our proposed summary disposition.

19 {9} For the reasons stated in our notice of proposed disposition and herein, we
20 affirm.

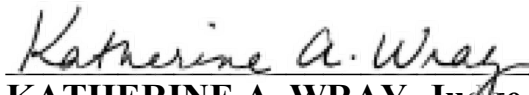
1 {10} IT IS SO ORDERED.

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JENNIFER L. ATTREP, Judge

4 WE CONCUR:

5 
6 GERALD E. BACA, Judge

7 
8 KATHERINE A. WRAY, Judge