IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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No. A-1-CA-41185, A-1-CA-42569
(consolidated for purpose of opinion)

CITY OF ROSWELL,

Plaintiff-Appellee,

v.

FRANK LUCERO,

Defendant-Appellant.

Consolidated with

CITY OF ROSWELL,

Plaintiff-Appellee,

v.

FRANK LUCERO,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF CHAVEZ COUNTY
Dustin K. Hunter, District Court Judge

City of Roswell
C. Josh Nairn-Mahan, City Attorney
Roswell, NM

for Appellee

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for Appellant

OPINION

HENDERSON, Judge.

{1} In these consolidated appeals,[1] Defendant Frank Lucero appeals his various convictions for unlawful use of a license (driving while privilege to do so is suspended), in violation of Roswell, N.M., City Code of Ordinances ch. 24 (Roswell UTO), art. I, § 12-6-12.6(A)(6) (1999, amended 2022); failure to provide evidence of mandatory financial responsibility, in violation of Roswell UTO art. I, § 12-10-6 (1999, amended 2022); failure to provide evidence of registration, in violation of Roswell UTO art. I, § 12-10-5 (1999, amended 2022); and failure to display a currently valid registration plate, in violation of Roswell UTO art. I, § 12-10-4 (1999, amended 2022). On appeal, Defendant contends that (1) pursuant to NMSA 1978, Section 66-8-122(A) (1985), he should have been taken immediately before a magistrate when requested; (2) there was insufficient evidence to support his convictions for driving on a suspended license; (3) the New Mexico Motor Vehicle

[1]This opinion consolidates four appeals, all captioned as *City of Roswell v. Lucero*: Case Nos. A-1-CA-42569 and A-1-CA-41185, which was previously consolidated with A-1-CA-41186 and A-1-CA-41187 on this Court's motion to consolidate. *See* Order Consolidating Appeals, *City of Roswell v. Lucero*, A-1-CA-41185 (N.M. Ct. App. Nov. 1, 2024). Because these cases involve the same parties and raise similar issues on appeal, we consolidate these cases for decision. *See* Rule 12-317(B) NMRA. A-1-CA-42569 is an appeal from district court case D-504-LR-2021-00034 (5th Jud. Dist. Ct. 2025); A-1-CA-41185 is an appeal from D-504-LR-2022-00009 (5th Jud. Dist. Ct. 2023); A-1-CA-41186 is an appeal from D-504-LR-2021-00022 (5th Jud. Dist. Ct. 2023); and A-1-CA-41187 is an appeal from D-504-LR-2021-00031 (5th Jud. Dist. Ct. 2023).

Division (MVD) lacked the authority to initially suspend his license; and (4) the district court abused its discretion in admitting for any purpose certain evidence. For the following reasons, we affirm.

BACKGROUND

{2} This consolidated appeal arises from various traffic citations issued to Defendant during four separate traffic stops between December 2019 and December 2021. During three of the traffic stops, Defendant requested to be taken before a magistrate while being issued citations for his Roswell UTO violations.[2] At the conclusion of each stop, Defendant signed the citations, acknowledging receipt of and agreeing to appear in municipal court on or by a date set within ten to twelve calendar days from the date he was stopped in each case. Defendant wrote his request to be taken before a magistrate below his signature on each citation issued before

[2]Defendant did not request to be taken immediately before a magistrate during the traffic stop underlying D-504-LR-2021-00031. Rather, in lapel camera footage of the traffic stop played during the bench trial in that case, the officer provided Defendant with a detailed explanation of the process for taking care of a suspended license and that Defendant will "have to talk to the judge" about the citations he received, which is why the officer "put this back all the way to January 16th so [Defendant would] have a little bit of time to try to get [his] stuff in order" but that Defendant can "pick a date to go in and [he can] go in and visit with the judge." The officer later explained again that the citations require a mandatory court appearance, meaning Defendant has to appear in municipal court "before or by January 16, 2020" and that he is free to show up at any time before January 16th. Accordingly, Defendant's argument on this issue does not apply to the resulting convictions in that case.

being given copies of the citations and sent on his way. However, in one of those cases Defendant failed to preserve this issue for appeal.[3]

{3} At a motion hearing on November 9, 2021, the district court heard and denied Defendant's motions related to his claimed denial of a right to be taken immediately before a magistrate in the two remaining cases, D-504-LR-2021-00022 and D-504-LR-2021-00034, finding Defendant had no such right since he "was never in a condition of custodial arrest."

[3]Defendant has failed to preserve this issue for appeal in the underlying case D-504-LR-2022-00009. In the traffic stop related to that case, Defendant wrote his "request to be taken to mag[istrate]" below his signature on each citation. However, from our review of the record it appears Defendant never raised this issue on appeal in the district court in that case—never filing a motion or raising this issue during the bench trial. *See State v. Leon*, 2013-NMCA-011, ¶ 33, 292 P.3d 493 ("We generally do not consider issues on appeal that are not preserved below." (internal quotation marks and citation omitted)). At the bench trial, a brief snippet of the lapel camera footage from that traffic stop was played in which the officer asks Defendant for his driver's license, registration, and insurance and Defendant responds with his name and birthdate. The officer then asks whether Defendant has any proof of documentation before Defendant objected to "any statements made" in the video, arguing the City never disclosed whether or what statements it planned to admit. The district court overruled the objection before Defendant raised other objections which were also overruled and the City proceeded to move on from the lapel video to question the officer about whether Defendant ever produced a valid license. Accordingly, Defendant failed to preserve this issue for appeal. *See State v. Montoya*, 2015-NMSC-010, ¶ 45, 345 P.3d 1056 ("In order to preserve an issue for appeal, a [party] must make a timely objection that specifically apprises the trial court of the nature of the claimed error and invokes an intelligent ruling thereon." (internal quotation marks and citation omitted)); Rule 12-321(A) NMRA. Consequently, his argument on this issue does not apply to the resulting convictions in that case.

{4} In lapel camera footage from one of the two cases, D-504-LR-2021-00022, the recording only captures the second half of the officer's encounter with Defendant. The video does not capture Defendant verbally requesting to be taken to a magistrate nor the officer's response. At the bench trial, the officer explained that "[the officer's] body camera did not activate the first time when [he] originally stopped the vehicle," and the officer only noticed it had not activated when he "went back to approach [Defendant's] vehicle to issue the citations." Defendant alleges in his motions to strike that he orally requested to be taken immediately to magistrate, but this request is not included in the lapel footage shown at trial. However, during questioning by Defendant at the motion hearing, the officer confirmed that Defendant requested to be taken before a magistrate before stating that he did not take Defendant because he did not arrest Defendant, but rather only cited Defendant so the officer did not believe that the statute applied.

{5} In the lapel footage from the traffic stop in the other case, D-504-LR-00034, the citing officer appeared confused by Defendant's request, noting that "we do our stuff through municipal court" since the violations are pursuant to municipal ordinances and that Defendant "can always appeal it over to district court, if that choice becomes available to you." Upon Defendant asserting that he was "invoking [his] right pursuant to the statute," the officer again responded "we're gonna go through city ordinance" before requesting that Defendant sign the citations. During

the motion hearing, the officer confirmed that Defendant asked to be taken for an immediate appearance before a magistrate, before Defendant questioned the officer about her familiarity with the statute at issue here and the officer stated that Defendant was "not arrested" but was detained for motor vehicle violations.

{6} On September 2, 2022, the district court held a joint evidentiary hearing for all four of the underlying cases on appeal here.[4] At the hearing and as pertinent to this appeal, the district court heard arguments on the admissibility of Defendant's MVD records. The City moved to admit the exhibits as "self-authenticating MVD records for [Defendant's] driver's license and the registration for the vehicle in question" under Rule 11-902 NMRA. Over Defendant's foundation objections, the district court admitted the records pursuant to Rule 11-902, after finding them to be "public records that appear to be certified."

{7} Defendant then moved to admit his own copy of the MVD records for "a limited basis as to prove the accuracy and the trustworthiness of the[] documents." After the district court noted its unfamiliarity with admitting an exhibit for a limited purpose and asked Defendant for clarification, Defendant asserted that he wanted "to show how they are different from the MVD records" that the City admitted. The

[4]We note that another of Defendant's district court cases, *City of Roswell v. Lucero*, D-504-LR-2021-00041 (5th Jud. Dist. Ct. June 27, 2023), was included in the joint evidentiary hearing. However, that case is not before us in this consolidated appeal.

district court cautioned Defendant that this is not how admission of evidence works and asked Defendant if he wanted his exhibit admitted for all purposes or the court would not admit his exhibit at all; Defendant confirmed that he wanted his exhibit admitted—though again asserting for the record his desire that the exhibit be admitted for the limited purpose. The district court admitted Defendant's exhibit as self-authenticating under Rule 11-902.

{8} Defendant next called his first witness, the MVD driver services bureau chief, whom Defendant questioned about the MVD's record-keeping processes and the City's MVD records exhibit. Referring to a notice of withdrawal of driving privileges letter contained in the City's exhibit, Defendant asked the witness if there was any proof that the notice was mailed to him and the witness explained that the MVD's normal practice is that staff key a conviction record into the system when received, the system then "automatically generates the revocation or suspension action" before taking a "batch file of all of those [actions], which are usually hundreds a day," and "generat[ing] one file that includes notices of suspension like the one we were just looking at," which "go out the following business day." The witness further clarified that notices of suspension are not sent via certified mail.

{9} Defendant then questioned the witness as to a purported discrepancy between the City's exhibit and his own MVD records exhibit—as Defendant's exhibit did not include the notice of suspension letter contained in the City's exhibit. The witness

agreed that it's possible "that the [MVD] staff may have made a mistake in not including . . . the withdrawal [of driving privileges] pages" in his exhibit before elaborating that "in [Defendant's] particular driving record history, over *fifty* of these records requests have been made. It's possible that a staff member may have missed something; it's possible that all of the documents that were included to the requestor are not present in [Defendant's exhibit that] I'm looking at." The witness further clarified that while he believed that each of the exhibits are true and accurate records, one set of records apparently contained the notice of suspension letter that the other did not—again reiterating that he did not know if the notice of suspension letters "were presented to the requestor and not included" in Defendant's exhibit as he did not handle processing of documents at that point. The City then briefly cross-examined the witness about the MVD's process for fulfilling records requests and the general contents of driving records.

{10} Following the joint evidentiary hearing, the district court held a bench trial in each case.[5] For purposes of brevity and because each trial proceeded in the same general manner, we summarily describe the proceedings here, reserving further development of pertinent facts as necessary to our discussion and disposition of each issue.

[5]The district court intended to hold a bench trial for each case all in the same day. However, the court ran out of time and ended up holding the bench trial for D-504-LR-2022-00009 on September 15, 2022.

{11} Each one of Defendant's bench trials began with the City calling the police officer who had stopped and cited Defendant as its sole witness, before playing lapel camera footage of the traffic stop and introducing the relevant Roswell uniform traffic ordinances into the trial record. After the City rested its case, Defendant rested his case without calling additional witnesses or introducing additional evidence. Finally, the district court heard and denied Defendant's various directed verdict motions, before the parties made closing statements. At the conclusion of each trial, the district court found that the City had established beyond a reasonable doubt the elements of each of the counts charged and convicted Defendant for the various motor vehicle infractions.[6]

{12} Defendant now appeals his convictions.

DISCUSSION

{13} On appeal, Defendant argues that (1) pursuant to Section 66-8-122(A), he should have been taken immediately before a magistrate when requested; (2) there was insufficient evidence to support his convictions for driving on a suspended license; (3) the MVD lacked the authority to initially suspend his license; and (4) the district court abused its discretion in admitting for any purpose certain evidence

[6]However, we note that in D-504-LR-2021-00031 the district court acquitted Defendant of a single traffic lane ordinance violation.

when Defendant had requested its admittance for limited purposes only. We consider Defendant's arguments in turn.

I. Request to Be Taken Before a Magistrate

{14} Defendant first argues that he should have been taken immediately before a magistrate following the traffic stops, pursuant to Section 66-8-122(A). Defendant further contends that because the officers refused his requests, the remedy is dismissal of his traffic citations. The City counters that because Defendant was only issued citations and not placed under custodial arrest, NMSA 1978, Section 66-8-123(A) (2013), applies rather than Section 66-8-122(A). The City also argues that regardless, "even those violators that are truly custodially arrested . . . are not afforded the immediate appearance of the sort Defendant argues this Court to accept as his right."

{15} This is an issue of first impression, requiring us to interpret Section 66-8-122(A) and a corresponding municipal ordinance. "Interpretation of municipal ordinances and statutes is a question of law that we review de novo." *Stennis v. City of Santa Fe*, 2008-NMSC-008, ¶ 13, 143 N.M. 320, 176 P.3d 309. "The principal command of statutory construction is that the court should determine and effectuate the intent of the Legislature, using the plain language of the statute as the primary indicator of legislative intent." *State v. Gutierrez*, 2023-NMSC-002, ¶ 22, 523 P.3d 560 (alteration, internal quotation marks, and citation omitted). "If statutory

language is doubtful, ambiguous, or an adherence to the literal use of the words would lead to injustice, absurdity, or contradiction, the court should reject the plain-meaning rule in favor of construing the statute according to its obvious spirit or reason." *Id.* (alteration, internal quotation marks, and citation omitted).

{16} We first begin by examining Section 66-8-123(A), as our Supreme Court has determined that this statute governs an officer's conduct "[w]here an officer stops an individual for a traffic violation." *State v. Ochoa*, 2008-NMSC-023, ¶ 14, 143 N.M. 749, 182 P.3d 130. Section 66-8-123(A) states:

> Except as provided in Section 66-8-122 . . . , unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of the Motor Vehicle Code or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release the person from custody.

Defendant contends that Section 66-8-122(A) governs because he requested an appearance before a magistrate.

{17} Pursuant to Section 66-8-122(A):

> Whenever any person is arrested for any violation of the Motor Vehicle Code . . . or other law relating to motor vehicles punishable as a misdemeanor, [they] shall be immediately taken before an available magistrate who has jurisdiction of the offense when the:
>
> A. person requests immediate appearance.

{18} At this juncture, we note that while Defendant raises this issue pursuant to Section 66-8-122(A), he was cited for municipal ordinance violations. Accordingly, we proceed in examining this issue under the corresponding municipal ordinance, New Mexico Uniform Traffic Ordinance, Section 12-12-6 (2010, amended 2025), as adopted by Roswell UTO art. I, § 12-12-6 (1999, amended 2022),[7] which provides:

> Whenever any person is arrested for any violation of this ordinance or other law relating to motor vehicles punishable as a misdemeanor, [they] shall be immediately taken before an available municipal or magistrate judge who has jurisdiction of the offense when the:
>
> (1) person requests immediate appearance.

The language of the statute and ordinance are near identical, with the ordinance providing for an appearance "before a *municipal or magistrate judge*." *See id.*[8]

[7]Roswell UTO, Section 24-1(a), provides that, "[t]he 2010 Compilation of the New Mexico Uniform Traffic Ordinance, as promulgated by the New Mexico Municipal League, and revised through July, 2018, is hereby adopted by reference pursuant to NMSA 1978, [Section] 3-17-6 [(2007)]."

[8] Similarly, Section 66-8-123(A) also has a corresponding municipal ordinance to New Mexico Uniform Traffic Ordinance, Section 12-12-3 (2010, amended 2025), as adopted by Roswell UTO art. I, § 12-12-3 (1999, amended 2022), which provides in relevant part, that "unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of this ordinance or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release [them] from custody."

{19} The City contends that because Defendant was only stopped and issued citations, Section 66-8-123(A) applies and our inquiry is at an end. *See State v. Bricker*, 2006-NMCA-052, ¶ 5, 139 N.M. 513, 134 P.3d 800 (stating that unless a person is stopped and arrested for driving on a suspended license and the underlying suspension was the result of driving while intoxicated, "Section 66-8-123 requires the arresting officer to release the violator from custody after the officer issues a citation pursuant to which the driver agrees to appear in court"). However, Defendant argues that since our Supreme Court has held that "arrest" means both custodial arrests and temporary detentions under the motor vehicle code, *see State v. Slayton*, 2009-NMSC-054, ¶ 20, 147 N.M. 340, 223 P.3d 337 (asserting "that under Chapter 66 of the New Mexico statutes, unless otherwise noted, 'arrest' includes temporary detentions"), he should have been immediately taken before a magistrate when he requested. We agree with Defendant that our case law is clear that pursuant to the motor vehicle code, our Supreme Court has "interpreted 'arrest' broadly to include not only custodial arrests but also temporary detentions." *Slayton*, 2009-NMSC-054, ¶ 18; *see id.* ¶ 19 (listing cases interpreting provisions of the motor vehicle code supportive of the proposition that arrest includes "temporary detention"). Further, our Supreme Court has previously held that Section 66-8-123(A), "provides for citations in lieu of custodial arrest for certain violations of the Motor Vehicle Code, 'a person is arrested' for the offense, 'the arresting officer'

prepares the citation, 'the arrested person' signs the citation, and 'the arrested person' receives a copy of the citation before being released." *State v. Marquez*, 2008-NMSC-055, ¶ 11, 145 N.M. 1, 193 P.3d 548 (emphasis omitted). This Court is bound by interpretations of the New Mexico Supreme Court. *See State ex rel. Martinez v. City of Las Vegas*, 2004-NMSC-009, ¶ 20, 135 N.M. 375, 89 P.3d 47. Accordingly, under the municipal ordinance at issue here, "arrest" includes both custodial and temporary detentions. *See Slayton*, 2009-NMSC-054, ¶ 18. We now turn to examine what it means to be "immediately taken before an available municipal or magistrate judge" when the driver makes such a request pursuant to Roswell UTO art. I., § 12-12-6(A).

{20} Defendant contends that the officers had a duty to take him to a magistrate at the conclusion of the traffic stop—and implicitly that an appearance ten to twelve days later is violative of his right to be taken "immediately." The City argues that accepting Defendant's position would "lead[] to absurd or unreasonable consequences" since even those violators who are custodially arrested "are not afforded the immediate appearance of the sort Defendant urges."

{21} We conclude that where a defendant has only been issued traffic citations and requests to be taken immediately before a magistrate, "immediate" does not mean instantaneous under Roswell UTO art. I, § 12-12-6(1) or Section 66-8-122(A). Even in cases where a defendant has been custodially arrested, the defendant is not

afforded an instantaneous appearance before a magistrate of the kind sought by Defendant. *See* Rule 8-401 NMRA (rule of criminal procedure governing pretrial release for municipal courts); *see also* N.M. Att'y Gen., No. 60-34 (Feb. 25, 1960) (opinion that "[t]he statutory use of the word 'immediate' does not mean 'instantaneously,' . . . but means within a reasonable time"). Rather, "immediate" in a custodial arrest context means that the court must conduct a hearing "as soon as practicable, but in no event later than . . . three (3) days after the date of arrest if the defendant is being held in the local detention center, or five (5) days after the date of arrest if the defendant is not being held in the local detention center." Rule 8-401(A)(1); *see* Rule 6-401(A)(1) NMRA (rule of criminal procedure governing pretrial release for magistrate courts).

{22} We do not believe the Legislature or the City of Roswell, when it adopted the statutory language into its city ordinance, intended to provide a driver with the right to instantaneously appear before a municipal judge or magistrate simply at the driver's request. If accepted, Defendant's argument would result in police officers being required to instantaneously transport drivers receiving traffic citations to a municipal or magistrate court—which would then be required to instantaneously accommodate the driver's request for an appearance regardless of the hour of the day or whether the citation occurred on a weekend, when defendants who are arrested for driving while intoxicated misdemeanors must wait up to three days to

see a judge. Defendant's argument also fails to consider the implications that adopting his view would have on police officers' ability to fulfill their primary duties at that time—duties requiring them to maintain public order and make arrests for crimes while on duty. *See* NMSA 1978, § 3-13-2 (1988) (enumerating the duties of municipal police officers); NMSA 1978, § 30-1-12(C) (1963) (defining "peace officer" for purposes of the criminal code as an officer "vested by law with a duty to maintain public order or to make arrests for crime"); *Weinstein v. City of Santa Fe ex rel. Santa Fe Police Dep't*, 1996-NMSC-021, ¶ 10, 121 N.M. 646, 916 P.2d 1313 (noting that the primary duty of municipal police officers "entail[s] making arrests for crimes and maintaining public order"); *Anchondo v. Corr. Dep't*, 1983-NMSC-051, ¶ 8, 100 N.M. 108, 666 P.2d 1255 ("Traditionally, the duties of law enforcement officers include preserving the public peace, preventing and quelling public disturbances, enforcing state laws, including but not limited to the power to make arrests for violation of state laws."). Such a result would assuredly be unreasonable and absurd, given that under Defendant's view, he would be afforded greater rights than someone actually held in custody, *see* Rule 6-401(A)(1); Rule 8-401(A)(1), while imposing substantial burdens on law enforcement and the courts. *See Gutierrez*, 2023-NMSC-002, ¶ 22 (explaining that we are to reject a statute's plain meaning when adherence would lead to absurd results). We simply will not assert that Defendant has greater rights here than someone subjected to a custodial arrest

and detention, where the resultant deprivation of their freedoms is significantly more consequential—involving potentially severe financial costs, lost pay or even job loss, neglect of childcare and familial responsibilities, and reputational harm.

{23} We also can discern no actual prejudice to Defendant where he was afforded an appearance before a municipal judge within ten to twelve days of each traffic stop. Defendant asserts that he was prejudiced because he "missed an opportunity to timely memorialize his testimony under oath" and "had to suffer the cost and inconvenience of protracted litigation." However, we fail to understand the significance that instantaneously memorializing Defendant's testimony would have here, or the actual costs or inconvenience Defendant suffered—nor does Defendant's briefing develop an argument explaining such prejudice. *See generally State v. Ernesto M., Jr.* (*In re Ernesto M., Jr.*), 1996-NMCA-039, ¶ 10, 121 N.M. 562, 915 P.2d 318 ("An assertion of prejudice is not a showing of prejudice."); *State v. Flores*, 2015-NMCA-002, ¶ 17, 340 P.3d 622 ("Our Court has been clear that it is the responsibility of the parties to set forth their developed arguments, it is not the court's responsibility to presume what they may have intended.").

{24} Consequently, we hold that when a defendant requests an immediate appearance before a magistrate pursuant to Roswell UTO art. I, § 12-12-6(1) or Section 66-8-122(A) after being cited and released during a traffic stop, an appearance before a municipal judge or magistrate does not mean instantaneous.

Rather, a reasonably short period of time constitutes "immediate" for purposes of the ordinance and statute. Thus, we conclude that under the circumstances of this case, the period of time Defendant waited to appear before a municipal judge from the date of his traffic stops was reasonable.

II. Sufficiency of the Evidence

{25} Next, Defendant argues that there was insufficient evidence presented at the bench trials to support his convictions for driving on a suspended license, in violation of Roswell UTO art. I, § 12-6-12.6(A)(6). Specifically, Defendant asserts that the City failed to present any evidence that Defendant was provided notice of his underlying license suspension such that there was insufficient evidence that he "knew or should have known" that his license was suspended at the time he was stopped and cited. The City counters that it presented sufficient evidence demonstrating that Defendant's license was suspended at the time of the traffic stops, including letters mailed to Defendant notifying him of his license suspension in 2016. We agree with the City and explain.

{26} "The test for sufficiency of the evidence is whether substantial evidence of either a direct or circumstantial nature exists to support a verdict of guilty beyond a reasonable doubt with respect to every element essential to a conviction." *State v. Montoya*, 2015-NMSC-010, ¶ 52, 345 P.3d 1056 (internal quotation marks and citation omitted). Substantial evidence is defined as such "relevant evidence that a

reasonable mind might accept as adequate to support a conclusion." *Id.* ¶ 53 (alteration, internal quotation marks, and citation omitted).

{27} Defendant was cited for violating Roswell UTO art. I, § 12-6-12.6 and other traffic ordinance violations, after failing to produce a valid driver's license when stopped. The New Mexico Uniform Traffic Ordinance, Section 12-6-12.6(A)(6) (2010, amended 2025), as adopted by the City of Roswell, makes it unlawful to "drive a motor vehicle on any public street or highway at a time when [a person's] privilege to do so is suspended and who knows or should have known that [their] license was suspended." Accordingly, to prove Defendant violated the municipal ordinance, the City was required to provide sufficient evidence that (1) Defendant operated a motor vehicle upon a public roadway; (2) Defendant knew or should have known that his driver's license was suspended; and (3) Defendant's license was indeed suspended at the time he was stopped. *See* Roswell UTO art. I, § 12-6-12.6(A)(6).

{28} Defendant does not dispute that he was driving, and our review of the record reflects that the City provided sufficient evidence that Defendant was driving a motor vehicle on a public roadway at the time of each stop. Rather, Defendant contends that "the [C]ity did not provide any documentary evidence that [Defendant] had been given notice of his license suspension" and "[t]he mere circumstance that [Defendant] had been charged multiple times with driving on a suspended license

was not adequate circumstantial evidence to determine that he had knowledge his license was suspended."

{29} Contrary to Defendant's contention, the City presented sufficient evidence that Defendant knew his license was suspended at the time of each traffic stop. Defendant's driving records were admitted as self-authenticating certified copies of a public record at the joint evidentiary hearing. *See* Rule 11-803(6), (8) NMRA; Rule 11-902(1). As such, the records were "admissible in evidence to prove [their] contents." *State v. Miller*, 1968-NMSC-054, ¶ 5, 79 N.M. 117, 440 P.2d 792. The contents of the City's exhibits included a withdrawal of driving privileges notification letter revealing that Defendant was sent notice in July 2016 that he was entitled to a hearing regarding the suspension of his driving privileges at that time.[9]

[9]To the extent Defendant contests the admissibility of the City's MVD records exhibit at trial, we are also unconvinced. Defendant argued at the hearing and bench trials that discrepancies between the City's exhibit and his own—including that the City's exhibit contained the notice letter, which his exhibit did not—raised questions about the trustworthiness of the records. At the joint evidentiary hearing, Defendant questioned the MVD driver services bureau chief about the notice letter discrepancy, and the chief asserted that he believed both sets of exhibits were true and accurate records and that while it's possible a MVD staff member may have missed including the notice letter in fulfilling Defendant's records request, it's also possible the letter was included in the records request and not in Defendant's trial exhibit. *See State v. Soto*, 2007-NMCA-077, ¶¶ 25-30, 142 N.M. 32, 162 P.3d 187 (explaining that the public records exception to the hearsay rule is rooted in the source of information and method of preparation indicating reliability or trustworthiness), *overruled on other grounds by State v. Tollardo*, 2012-NMSC-008, 275 P.3d 110; *see also State v. Herrera*, 1991-NMCA-005, ¶¶ 18-20, 111 N.M. 560, 807 P.2d 744 (explaining that an inference of notice based on mailing is permitted, if the trier of fact is persuaded by the evidence). Later, the district court determined that although "there

Thus, there is sufficient evidence Defendant knew his license was suspended at the time he was stopped in 2020.

{30} As to the driver's license suspension, the City presented sufficient evidence that Defendant's driver's license was suspended at the time of each traffic stop. The MVD records reflected that Defendant "has an invalid New Mexico [l]icense due to a suspension," and noted that the agency suspended Defendant's license in March 2014. Additionally, the withdrawal of driving privileges notification letter stated that reinstatement of Defendant's driving privileges at the end of his license suspension "is not automatic," as "[t]he action will remain in effect until all requirements for reinstatement (including payment of a reinstatement fee) are met." However, there is no evidence in the record or otherwise presented at the bench trials demonstrating that Defendant took any steps necessary to effectuate reinstatement of his license before he was stopped and cited for driving with a suspended license in each traffic stop at issue here. Thus, substantial evidence supports Defendant's convictions under Roswell UTO art. I, § 12-6-12.6(A)(6).

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might be the occasional error in any record," Defendant's MVD records "have an underlying indicia of reliability" as the records have consistently shown Defendant's license was suspended. *See Soto*, 2007-NMCA-077, ¶¶ 25-30 (discussing the district court's discretion to admit public records unless the court finds that the circumstances demonstrate a lack of reliability or trustworthiness).

II. The Initial Driver's License Suspension

{31} Next, Defendant contends that the MVD lacked the statutory authority to initially suspend his driver's license. However, Defendant concedes that he is collaterally estopped from raising this issue on appeal by this Court's recent decision in *City of Roswell v. Lucero*, 2026-NMCA-047, ¶ 23, 586 P.3d 892 ("Defendant is barred from relitigating this issue here or in any other related case."). Accordingly, we accept Defendant's concession and decline further review of this issue. *See State v. Serrato*, 2021-NMCA-027, ¶ 13, 493 P.3d 383 (explaining that while not bound by a party's concession, this Court accepted the state's concession after review).

IV. Admission of Evidence

{32} Finally, Defendant contends that the district court abused its discretion in admitting for all purposes his MVD records exhibit at the joint evidentiary hearing, when Defendant requested that the exhibit be admitted for a limited purpose only. The City responds that Defendant asserts no viable basis upon which the district court could exercise discretion in admitting the exhibits for a limited purpose, and that Defendant consented to their admission.

{33} Upon review of the record, we find this issue raised by Defendant to be without merit. The hearing record does not reflect that Defendant offered any viable basis for seeking limited admission. *See* Rule 11-105 NMRA (explaining that the court must restrict evidence to its proper scope if requested and not admissible for

certain purposes). Additionally, Defendant has failed to demonstrate any potential prejudice as the district court separately admitted Defendant's certified MVD records as an exhibit of the City. *See State v. Samora*, 2013-NMSC-038, ¶ 20, 307 P.3d 328 (determining the issue raised to be without merit when the defendant failed to demonstrate prejudice or preserve the issue); *cf. State v. Gray*, 1968-NMCA-059, ¶¶ 30-31, 79 N.M. 424, 444 P.2d 609 (concluding that a defendant is not prejudiced where properly admitted exhibits show the same things as improperly admitted exhibits). Thus, we decline to review this issue further.

CONCLUSION

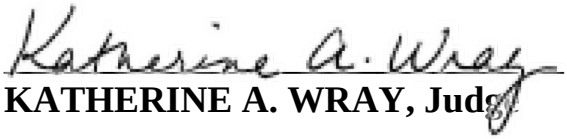
{34} Based on the foregoing, we affirm.

{35} **IT IS SO ORDERED.**

SHAMMARA H. HENDERSON, Judge

WE CONCUR:

J. MILES HANISEE, Judge



KATHERINE A. WRAY, Judge