

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

2 **MARY V. MARTINEZ,**

Court of Appeals of New Mexico  
Filed 6/22/2026 11:43 AM

3 Plaintiff-Appellant,



Mark Reynolds

4 v.

**No. A-1-CA-42238**

5 **SOMBRA DEL OSO APARTMENTS, LLC,**

6 Defendant-Appellee.

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

8 **Elaine P. Lujan, District Court Judge**

9 Mary V. Martinez

10 Albuquerque, NM

11 Pro Se Appellant

12 Allen, Shepherd & Lewis, P.A.

13 Brant L. Lillywhite

14 Albuquerque, NM

15 for Appellee

16 **MEMORANDUM OPINION**

17 **WRAY, Judge.**

18 {1} Plaintiff Mary V. Martinez appeals from the district court's order dismissing  
19 her lawsuit for lack of prosecution. [RP 123-24] Plaintiff filed a timely motion to  
20 reinstate [RP 125-26], which the district court denied [RP 191-92]. This Court issued  
21 a notice of proposed disposition proposing to affirm. Plaintiff filed a memorandum

1 in opposition, and Defendant filed a memorandum in support. We have duly  
2 considered these, and, unpersuaded by the memorandum in opposition, we affirm.

3 {2} As we discussed in our proposed disposition, the February 13, 2024 order,  
4 entered pursuant to the district court’s own motion, refers to the fact that “no  
5 significant action has been taken in 180 or more days in connection with any and all  
6 pending claims” and allows any party to move for reinstatement of the case within  
7 thirty days of service. [RP 123] This language tracks that of Rule 1-041(E)(2)  
8 NMRA, which permits dismissals without prejudice for lack of prosecution. Under  
9 this rule, the party seeking reinstatement following dismissal must make a showing  
10 of good cause as to why the case should be reinstated. *Id.*; see *Summit Elec. Supply*  
11 *Co. v. Rhodes & Salmon, P.C.*, 2010-NMCA-086, ¶ 7, 148 N.M. 590, 241 P.3d 188.  
12 A party shows good cause for purposes of Rule 1-041(E)(2) where the party  
13 demonstrates it “is ready, willing, and able to proceed with the prosecution of [its]  
14 claim and that the delay in prosecution is not wholly without justification.” *Summit*,  
15 2010-NMCA-086, ¶ 7 (internal quotation marks and citation omitted).

16 {3} We review the district court’s determination as to good cause shown for an  
17 abuse of discretion. *See id.* ¶ 9. “Discretion is abused when the court exceeds the  
18 bounds of reason, all the circumstances before it being considered.” *Id.* ¶ 6 (internal  
19 quotation marks and citation omitted). The purpose of Rule 1-041(E)(2) is to  
20 “provide a standardized procedure for trial courts to evaluate the intentions of parties

1 and their counsel and to rid their dockets of cases that should not be carried as active  
2 cases.” *Vigil v. Thriftway Mktg. Corp.*, 1994-NMCA-009, ¶ 15, 117 N.M. 176, 870  
3 P.2d 138. Because this purpose essentially amounts to docket control, we have held  
4 that “good cause . . . should be construed liberally.” *Id.*

5 {4} Our notice of proposed disposition explicitly noted what further information  
6 this Court required to review the district court’s determination for an abuse of  
7 discretion and thus we noted that “[t]o reinstate the case, Plaintiff needed to make  
8 assertions as to why ‘the delay [in this case] is not wholly without justification.’  
9 (quoting *Summit Elec. Supply Co.*, 2010-NMCA-086, ¶ 7 (internal quotation marks  
10 and citation omitted)).” [See CN 5] We also said:

11 Plaintiff does not explain in the docketing statement (1) why nothing  
12 happened in the case after June 21, 2023; (2) what Plaintiff told the  
13 district court at the hearing on the motion to reinstate about why it looks  
14 like nothing happened in this case after June 21, 2023; or (3) anything  
15 the district court may have said or asked at the hearing that would  
16 explain why the case was not reinstated. Without this information, we  
17 propose to hold that the district court did not exceed the bounds of  
18 reason in finding that Plaintiff did not show good cause for  
19 reinstatement.

20 [CN 5]

21 {5} We have reviewed Plaintiff’s memorandum in opposition to our notice of  
22 proposed disposition, and we still cannot conclude that the district court abused its  
23 discretion in denying Plaintiff’s motion to reinstate the case. We understand that  
24 Plaintiff believed that she was waiting to hear “back from the motions [she] sent to

1 the court,” and asserts that the attorney “sent to the wrong address/emails to”  
2 Plaintiff. [MIO 2] Plaintiff claims that her complaint “sat 180 days while [she]  
3 waited for a response from the court and the [a]ttorney. The [j]udge was not aware  
4 that I was not rec[ei]ving the motions[,] which cause[d] the dismissal.” [MIO 2]  
5 Plaintiff asserts that she did not discover that she was not receiving pleadings from  
6 Defendant until after the district court dismissed the case. [MIO 3] Plaintiff claims  
7 that the “[j]udge never knew this happen[e]d so the [j]udge dismissed it believing I  
8 wasted the [c]ourt[’]s time.” [MIO 3]

9 {6} However, these assertions about Plaintiff’s failure to receive information from  
10 Defendant do not address the information that this Court needs to determine whether  
11 the district court erred in failing to reinstate the case. Plaintiff’s memorandum in  
12 opposition still does not present this Court with information about the district court  
13 ruling that is on appeal now: the district court’s order denying Plaintiff’s motion to  
14 reinstate the case. Plaintiff does not present this Court with the arguments that she  
15 made at the district court at the hearing on the motion to reinstate about why it looks  
16 like nothing happened in this case after June 21, 2023; or provide this Court with  
17 information regarding anything the district court may have said or asked at the  
18 hearing that would explain why the case was not reinstated. [See CN 5]

19 {7} Based upon the record proper, it appears that, at least to some extent, Plaintiff  
20 was aware of the mailing address issues prior to the district court’s hearing on her

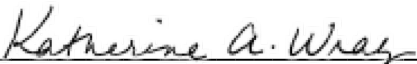
1 motion to reinstate the case. For example, on August 30, 2024, Plaintiff filed a  
2 pleading asserting in part that she had not received notice of a prior hearing because  
3 the attorney had sent it to an old address. [RP 177] We also note that, to some extent,  
4 Plaintiff was able to participate in discovery earlier in the case, and in fact appears  
5 to have sat for a deposition conducted by Defendant. [RP 43] But after the hearing  
6 on September 30, 2024, the district court decided that Plaintiff had not shown good  
7 cause to reinstate the case. [RP 171-73, 191-92] Plaintiff’s explanations to this Court  
8 do not establish that the district court abused its discretion by concluding that  
9 Plaintiff failed to pursue prosecution of her case pursuant to Rule 1-041(E)(2).  
10 Accordingly, we conclude that the district court did not err in denying Plaintiff’s  
11 motion to reinstate the case, where Plaintiff argued that she was waiting on either  
12 the district court or Defendant.

13 {8} In her memorandum in opposition, Plaintiff has not asserted any facts, law, or  
14 argument that persuade this Court that our notice of proposed disposition was  
15 erroneous. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d  
16 1003 (stating that “[a] party responding to a summary calendar notice must come  
17 forward and specifically point out errors of law and fact,” and the repetition of earlier  
18 arguments does not fulfill this requirement), *superseded by statute on other grounds*  
19 *as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *see also Hennessy*  
20 *v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have

1 repeatedly held that, in summary calendar cases, the burden is on the party opposing  
2 the proposed disposition to clearly point out errors in fact or law.”).

3 {9} Accordingly, for the reasons stated in our notice of proposed disposition and  
4 herein, we affirm the district court.

5 {10} **IT IS SO ORDERED.**

6   
7 **KATHERINE A. WRAY, Judge**

8 **WE CONCUR:**

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10 **ZACHARY A. IVES, Judge**

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12 **GERALD E. BACA, Judge**