IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE ESTATE OF LAWRENCE DIETZ, Deceased,

ROBERT BRUCE DIETZ, SR., Personal Representative,

Petitioner-Appellee,

v. **No. A-1-CA-43067**

BRETT WAYNE PUTNEY,

Proposed Intervenor-Appellant.

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
Matthew J. Wilson, District Court Judge

Robert Bruce Dietz, Sr.
Valparaiso, FL

Pro Se Appellee

Brett Wayne Putney
Santa Fe, NM

Pro Se Appellant

MEMORANDUM OPINION

HENDERSON, Judge.

{1} Appellant, a self-represented litigant, appeals the district court's order denying his motion to intervene in the probate action of the estate of his deceased boyfriend (Decedent) with whom Appellant lived and to whom he was engaged to marry. We issued a notice proposing to summarily affirm. Appellant responded to

our notice with a memorandum in opposition, which we have duly considered. We remain unpersuaded and affirm.

{2} Our notice proposed to affirm on the following bases: (1) Appellant did not refer us to any legal authority to support the various grounds for which he claimed an interest in the probate of the estate warranting intervention [CN 2-3], and (2) we were not persuaded on the merits that Appellant established error in each of the district court's reasons for denying his motion for intervention [CN 3-5]. We also proposed to hold that Appellant did not show how he established a due process violation in the district court and did not refer us to any relevant authority to support an alleged due process violation. [CN 5-7] As we explained in our notice, when a party does not refer to any authority to support the issue raised, we may assume no supporting authority exists and need not address the issue. *See Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482; *Lee v. Lee* (*In re Adoption of Doe*), 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329.

{3} Appellant's response to our notice contains heartfelt statements about how unfairly and dismissively he felt he was treated in multiple ways throughout the process, both before and after the district court denied Appellant's motion to intervene. [MIO 1-5] In doing so, Appellant raises new matters related to his treatment with respect to the estate property, how Decedent's remains were treated, and how Appellant's appeal was ignored. [MIO 1-3] Appellant suggests that these

matters demonstrate the prejudice he suffered from the denial of intervention. [MIO 3-4] We disagree. Generally, for purposes of appeal, prejudice does not require a showing of merely a harmful consequence of a ruling; it requires a showing that an erroneous ruling was made that affected the result of the case. *See In re Elizabeth A.*, 2024-NMCA-017, ¶ 23, 542 P.3d 793 ("We are a court of review and our function is to see if legal error that would change the result occurred." (internal quotation marks and citation omitted)); *see also id.* ¶¶ 23-26 (holding that even where the district court made an error, we will affirm if there was error that did not prejudice the appellant because it would not change the result); *In re Pulver*, 1994-NMCA-024, ¶ 8, 117 N.M. 329, 871 P.2d 985 (explaining that "for error to be reversible, it must be prejudicial," meaning that correction of the error would change the result). In the current case, we are not persuaded that the district court erred.

{4} Appellant's assertions about his interests in intervening in the probate action, while heartfelt, are not supported by citation to legal authority. We are not aware of any New Mexico legal authority that supports what we understand to be a claim that Appellant should have been treated as the domestic partner of Decedent, with rights to participate in the probate proceeding. The New Mexico Legislature has recognized the right of committed couples to participate in the health care decisions of their partner, but has not extended this to having a legal right to participate in the probate of a domestic partner's estate. *See Hartford Ins. Co. v. Cline*, 2006-NMSC-

033, ¶ 11, 140 N.M. 16, 139 P.3d 176 (discussing the failed attempt in the Legislature "to pass legislation intended to extend the rights, protections[,] and benefits enjoyed by spouses in a marriage to domestic partners." *Id.* ¶ 10. Nor does New Mexico recognize common-law marriage. *See id.* ¶ 13. "If we were to say that the same rights that cannot be gained by common-law marriage may be gained by the implications that flow from cohabitation, then we have circumvented the prohibition of common-law marriage." *Merrill v. Davis*, 1983-NMSC-070, ¶ 9, 100 N.M. 552, 673 P.2d 1285.

{5} Because Appellant has cited no authority in support of this argument, and because this Court is not aware of any such support, Appellant has not demonstrated error in the district court's rulings or in our proposed analysis. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and explaining that the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *see also Curry*, 2014-NMCA-031, ¶ 28 ("Where a party cites no authority to support an argument, we may assume no such authority exists."); *Doe*, 1984-NMSC-024, ¶ 2 (same). To the extent Appellant contends that the probate wrongfully continued as though no appeal had been filed [MIO 3], he does not refer us to controlling legal authority,

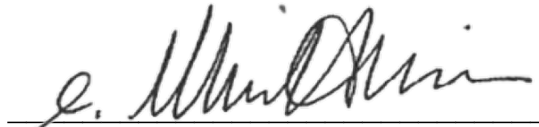
and we are not persuaded the result—the denial of intervention—would be different if we were to address this claim. *See In re Elizabeth A.*, 2024-NMCA-017, ¶ 23.

{6} For the reasons stated above and in our notice, we affirm the district court's order denying Appellant's motion to intervene.

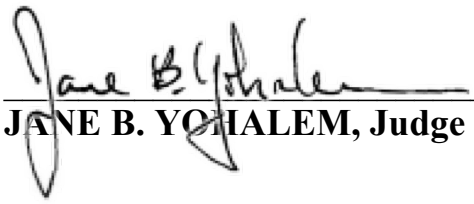
{7} **IT IS SO ORDERED.**

SHAMMARA H. HENDERSON, Judge

WE CONCUR:



J. MILES HANISEE, Judge



JANE B. YOHALEM, Judge