

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 8/11/2026 8:29 AM

JOSH ZAPATA,

Plaintiff-Appellant,



Mark Reynolds

v.

No. A-1-CA-43254

**BOARD OF COUNTY COMMISSIONERS
OF BERNALILLO COUNTY and
FAITH JO MONTOYA,**

Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY,
Daniel E. Ramczyk, District Court Judge**

Mescall Law Firm, P.C.
Thomas J. Mescall
Phillip P. Baca
Albuquerque, NM

for Appellant

Virtue & Najjar, PC
Jared D. Najjar
Santa Fe, NM

for Appellees

MEMORANDUM OPINION

HENDERSON, Judge.

{1} Plaintiff appeals from the district court's grant of Plaintiff's motion for attorney fees after Plaintiff successfully brought an Inspection of Public Records Act (IPRA) claim against Defendants. Plaintiff contends the district court erred by

1 limiting its grant of attorney fees from only January 22, 2025 (the date of filing the
2 complaint) to May 29, 2025 (the date Plaintiff received all documents requested
3 under IPRA) and by reducing Plaintiff's counsels' hourly rate from \$475 per hour
4 to \$219 per hour. This Court issued a calendar notice proposing to affirm. Plaintiff
5 has filed a memorandum in opposition, which we have duly considered.
6 Unpersuaded, we affirm.

7 {2} Plaintiff maintains that the district court erred in limiting his counsel's
8 attorney fees to the above-mentioned date range. Plaintiff contends that the district
9 court's limitation on his attorney fees violates IPRA's mandatory fee provision.
10 [MIO 1-2 (fees are mandatory); 3-4 (successfully litigated claim); 5-8 (no authority
11 to limit fees); 9-10 (entitled to fees after completion of IPRA request)]

12 {3} As we explained in our notice of proposed disposition, under IPRA, "[t]he
13 court shall award damages, costs[,] and reasonable attorney[] fees to any person
14 whose written request has been denied and is successful in a court action to enforce
15 the provisions." NMSA 1978, § 14-2-12(D) (1993). [SCN 4-5] But the plain
16 language of the fee provision "evinces a legislative intent to award attorney fees
17 generated during litigation that secures production of previously denied responsive
18 documents." *Am. C.L. Union of N.M. v. Duran*, 2016-NMCA-063, ¶ 35, 392 P.3d
19 181; *see* § 14-2-12(D); *Faber v. King*, 2015-NMSC-015, ¶ 31, 348 P.3d 173 ("A
20 successful litigant suing under Section 14-2-12 is adequately compensated by

1 obtaining the documents [they] sought in the first place.”). [SCN 5] While we agree
2 with Plaintiff that he is entitled to an award of attorney fees once successful in
3 securing production of previously denied documents, we disagree that a plaintiff is
4 entitled to an award of *all* requested attorney fees without limitation. [MIO 1-10]
5 Instead, IPRA requires—like Plaintiff repeatedly acknowledges—an award of “the
6 full amount of fees *fairly and reasonably incurred by the plaintiff in securing an*
7 *award*” under the statutory scheme. [MIO 3-4] *Rio Grande Sun v. Jemez Mountains*
8 *Pub. Sch. Dist.*, 2012-NMCA-091, ¶ 19, 287 P.3d 318 (text only) (citation omitted);
9 *see* § 14-2-12(D).

10 {4} The award of attorney fees under IPRA and the determination of whether a
11 plaintiff’s requested amount is reasonable falls within the district court’s discretion,
12 and will not be reversed absent an abuse of that discretion. *See N.M. Found. for Open*
13 *Gov’t v. Corizon Health*, 2020-NMCA-014, ¶ 15, 460 P.3d 43 (“[A]n award of
14 attorney fees rests in the discretion of the trial court and this Court will not alter the
15 fee award absent an abuse of discretion.” (alternations, internal quotation marks, and
16 citation omitted)); *Duran*, 2016-NMCA-063, ¶ 41 (“A factual determination by the
17 district court that an IPRA fee request is reasonable when weighed against the results
18 obtained in the litigation will be disturbed only when the award is contrary to logic
19 and reason.” (internal quotation marks and citation omitted)). Here, the district court
20 found that the fees “fairly and reasonably incurred” by Plaintiff extended “[f]rom

1 the date Plaintiff filed his [c]omplaint (1-22-25) to the date Plaintiff claims he
2 received all of the documents which he had originally requested (5-29-25)” in which
3 “Plaintiff’s [counsel] billed 30.5 hours, *according to the attorneys’ supporting*
4 *affidavit and billing summary.*” [RP 288, ¶ 1]. The district court also extended the
5 date range for which it granted attorney fees based on its previous conclusion that
6 “[Defendants] fulfilled [Plaintiff]’s IPRA request on April 7, 2025.” [RP 127, ¶ 4]
7 [SCN 5-6]

8 {5} Accordingly, under the facts and circumstances of the case, this Court
9 proposed to conclude that the district court did not abuse its discretion because the
10 district court reviewed and weighed the information presented by the parties when it
11 determined that an award of reasonable attorney fees was to compensate for work
12 done from filing the complaint to complete production of the documents requested.
13 [SCN 6-8] *See Benz v. Town Ctr. Land, LLC*, 2013-NMCA-111, ¶ 11, 314 P.3d 688
14 (“An abuse of discretion occurs when a ruling is clearly contrary to the logical
15 conclusions demanded by the facts and circumstances of the case.” (internal
16 quotation marks and citation omitted)).

17 {6} Despite Plaintiff’s assertion of error, Plaintiff does not specifically address
18 this Court’s analysis that the district court did not abuse its discretion by limiting
19 Plaintiff’s counsels’ fees. [MIO 1-10] Rather, Plaintiff asserts that the district court
20 erred as a matter of law, arguing that the cases this Court relied on in its proposed

summary disposition do not allow “a district court judge to refuse to award attorney[] fees for time spent” litigating a case after production of the documents. [MIO 6-8]

{7} Plaintiff misconstrues this Court’s analysis and the cases this Court relies on.

In *Rio Grande Sun*, this Court reversed the district court’s reduction of attorney fees billed because the district court “failed to utilize the lodestar method or any objective basis for determining a reasonable award of attorney fees,” and “remand[ed] for a recalculation based on the evidence” presented by the parties. 2012-NMCA-091,

¶ 21. In *Duran*, this Court affirmed the district court’s attorney fees award, including time spent after the documents were produced, because “[the plaintiff]’s actions were reasonable,” “[g]iven both the responsiveness of the [documents] and the confusion created by [the d]efendant’s conduct throughout the litigation” and therefore “we cannot say that the district court’s ruling as to the reasonableness of the fees generated by [the plaintiff] during the litigation constituted an abuse of discretion.” 2016-NMCA-063, ¶ 48. Finally, in *Britton v. Off. of Att’y Gen.*, this Court explained that Section 14-2-12 “facilitates enforcement” by “encouraging individuals to pursue an enforcement action and lawyers to take cases involving alleged violations of IPRA” because “Section 14-2-12(D) requires courts to award damages, costs and reasonable attorney[] fees” to successful litigants. *Britton*, 2019-NMCA-002, ¶ 34, 433 P.3d 320 (alteration, internal quotation marks, and citations omitted). Contrary to Plaintiff’s argument, each case supports both the district

1 court's order and this Court's analysis on appeal—we will affirm the district court's
2 award of attorney fees so long as the district court's decision and determination of
3 reasonableness was not an abuse of discretion.

4 {8} As a result, Plaintiff does not now direct this Court to any new fact, law, or
5 argument that persuades us that our notice of proposed disposition was incorrect.
6 *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
7 courts have repeatedly held that, in summary calendar cases, the burden is on the
8 party opposing the proposed disposition to clearly point out errors in fact or law.”);
9 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating
10 that a party responding to a summary calendar notice must come forward and
11 specifically point out errors of law and fact, and the repetition of earlier arguments
12 does not fulfill this requirement), *superseded by statute on other grounds as stated*
13 *in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore refer Plaintiff
14 to our previous analysis in our proposed summary disposition.

15 {9} Plaintiff also maintains that the district court erred by reducing Plaintiff's
16 counsel's hourly rate. [MIO 11-15] We proposed to conclude in our notice of
17 proposed summary disposition that the district court did not abuse its discretion in
18 reducing Plaintiff's counsel's hourly rate because the record proper established that
19 the district court considered all evidence presented to determine what rate was
20 reasonable. [SCN 8-9] Indeed, the district court explicitly found “[a] reasonable

1 hourly rate for attorneys practicing in New Mexico is \$219.00, as supported by the
2 date provided by Defendants in their brief in response to Plaintiff’s motion for
3 attorney[] fees.” [RP 288, ¶ 2] Our review of the record proper showed that the
4 district court considered orders from other district court proceedings, declarations,
5 and Plaintiff’s counsel’s time sheets, as well as a study cited to by Defendants about
6 average hourly rates for civil litigation, other district court orders finding Plaintiff’s
7 requested rate unreasonable, and examples of Plaintiff’s counsel’s work to highlight
8 similarities and establish that the instant case should be considered simple litigation.
9 [RP 227-62]

10 {10} Like Plaintiff’s other argument, Plaintiff does not specifically address this
11 Court’s analysis that the district court’s decision was supported by substantial
12 evidence. [MIO 1-10] Rather, Plaintiff again argues that the district court erred as a
13 matter of law because the district court failed “to follow the factors established by
14 the Supreme Court in *Lenz v. Chalamidas*[], 1989-NMSC-067, ¶ 19, 109 N.M. 113,
15 782 P.2d 85]” and “disregarded” Plaintiff’s evidence. [MIO 11-15] Plaintiff’s
16 reliance on *Lenz* is misplaced. *Lenz* provides a nonexhaustive list of factors that
17 *could be* considered to determine the operative question—whether the requested
18 attorney fees are reasonable. *See id.* (explaining that the factors “have been
19 considered in *determining the reasonableness of attorney fees*” (emphasis added));
20 *see also Rio Grande Sun*, 2012-NMCA-091, ¶ 13 (explaining that “[w]hile an award

1 of attorney fees is discretionary, the exercise of that discretion must be reasonable
2 when measured against objective standards and criteria” which “*may* include” the
3 *Lenz* factors (emphasis added) (internal quotation marks and citation omitted)).

4 {11} Further, Plaintiff’s characterization of the district court “disregarding” his
5 evidence amounts to a challenge to the district court’s weighing of the evidence
6 presented when determining Plaintiff’s counsels’ fees. As we explained in our notice
7 of proposed disposition, the district court was free to reject Plaintiff’s evidence in
8 favor of Defendant’s evidence when determining Plaintiff’s counsels’ hourly rate,
9 and we will not reweigh evidence on appeal. *See Vanderlugt v. Vanderlugt*, 2018-
10 NMCA-073, ¶ 35, 429 P.3d 1269 (explaining that the question on review is whether
11 evidence supports the result reached, not whether evidence supports a different
12 result); *In re Camino Real Env’t Ctr., Inc.*, 2010-NMCA-057, ¶ 23, 148 N.M. 776,
13 242 P.3d 343 (“[M]erely identifying the existence of evidence which may have
14 tended to support a different outcome does not demonstrate an abuse of discretion.”);
15 *c.f. Buckingham v. Ryan*, 1998-NMCA-012, ¶ 10, 124 N.M. 498, 953 P.2d 33
16 (“[W]hen there is a conflict in the testimony, we defer to the trier of fact.”).

17 {12} Our review of the memorandum in opposition shows only one challenge to
18 the sufficiency of the evidence relied on by the district court—“[s]ince when does
19 an internet site constitute admissible evidence in a court of law?” [MIO 11] Plaintiff
20 provides no additional explanation or citations to support his assertion that

Defendants’ study was not admissible or appropriate for the district court’s consideration, and therefore, we decline to address this argument further. *See Corona v. Corona*, 2014-NMCA-071, ¶ 28, 329 P.3d 701 (stating that appellate courts are under no obligation to review unclear or undeveloped arguments); *Aetna Fin. Co. v. Gaither*, 1994-NMSC-082, ¶ 15, 118 N.M. 246, 880 P.2d 857 (stating that the appellants’ “bald assertion of error by the court is insufficient; simply alleging an abuse of discretion does not make it so.” (text only) (citation omitted)). Plaintiff has therefore not cited to any new fact, law, or argument that persuades us that our notice of proposed disposition was incorrect. *See Hennessy*, 1998-NMCA-036, ¶ 24; *Mondragon*, 1988-NMCA-027, ¶ 10.

{13} Finally, Plaintiff has abandoned his claims that the district court erred by denying Plaintiff request for injunctive relief to permanently enjoin Defendants from requiring a person to use Defendants’ IPRA portal to submit an IPRA request. [SCN 1-4; MIO 1-16] As a result, we need not address this claim of error further. *See Taylor v. Van Winkle’s IGA Farmer’s Mkt.*, 1996-NMCA-111, ¶ 5, 122 N.M. 486, 927 P.2d 41 (recognizing that issues raised in a docketing statement, but not contested in a memorandum in opposition are abandoned).

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

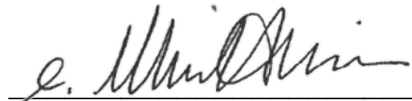
1 {15} IT IS SO ORDERED.

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SHAMMARA H. HENDERSON, Judge

4 WE CONCUR:

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J. MILES HANISEE, Judge

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ZACHARY A. IVES, Judge