

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 8/11/2026 8:12 AM

MARYANN BLACKHART,

Petitioner-Appellant,

v.

No. A-1-CA-43016

CRAIG BLACKHART,

Respondent-Appellee.

APPEAL FROM THE DISTRICT COURT OF LOS ALAMOS COUNTY

Shannon Broderick Bulman, District Court Judge

Foghi Law Firm, LLC

Boglarka Foghi

Corrales, NM

for Appellant

Eileen R. Mandel

Santa Fe, NM

for Appellee

MEMORANDUM OPINION

HENDERSON, Judge.

{1} Petitioner appeals the district court's order denying her motion to modify custody. We issued a notice proposing to summarily affirm. Petitioner has responded to our proposed analysis with a memorandum opposing affirmance. We are not persuaded that Petitioner has demonstrated error. Thus, we affirm.

1 {2} Our calendar notice explained how Petitioner’s docketing statement did not
2 satisfy the obligations to provide sufficient information under Rule 12-208(D)
3 NMRA and our case law to support the issues she raised on appeal. [CN 2-3] *See*
4 *State ex rel. N.M. Highway & Transp. Dep’t v. City of Sunland Park*, 2000-NMCA-
5 044, ¶ 15, 129 N.M. 151, 3 P.3d 128 (noting that the docketing statement takes the
6 place of full briefing when a case is decided on this Court’s summary calendar);
7 *Thornton v. Gamble*, 1984-NMCA-093, ¶ 18, 101 N.M. 764, 688 P.2d 1268 (stating
8 that the obligation to provide a summary of all relevant facts in the docketing
9 statement also requires the appellant to include the facts, arguments, and evidence
10 that supported the district court’s decisions). We could have proposed summary
11 affirmance based solely on the various deficiencies in the pleading, including that
12 Petitioner’s docketing statement did not summarize the relevant facts and we are not
13 required to find them in the record proper. *See In re Estate of Heeter*, 1992-NMCA-
14 032, ¶ 15, 113 N.M. 691, 831 P.2d 990 (“This [C]ourt will not search the record to
15 find evidence to support an appellant’s claims.”); *State v. Chamberlain*, 1989-
16 NMCA-082, ¶ 11, 109 N.M. 173, 783 P.2d 483 (holding that the appellant’s failure
17 to provide the court with a summary of all the facts material to consideration of an
18 issue on appeal necessitated a denial of relief). Nevertheless, we addressed
19 Petitioner’s issues on appeal to the extent our review of the record proper would
20 allow.

1 {3} Petitioner responded to our notice with a memorandum in opposition that
2 unfortunately shows a misunderstanding of our proposed analysis and of her
3 obligation on appeal, makes repeated and conclusory claims of error without
4 providing the information missing from the docketing statement and without
5 demonstrating the error she alleges. We explain below.

6 {4} Relative to Petitioner's misunderstanding of our proposed analysis,
7 Petitioner's response emphasizes that she made specific objections on the record in
8 the district court proceedings, not generalized claims of error, and suggests that our
9 notice treated the lack of detail in the docketing statement as though the record itself
10 lacks detail. [MIO 2-6] To the contrary, our notice pointed out that the docketing
11 statement should be detailed enough to operate as a fair substitute for the full record
12 proper, and that we were not obligated to search the record for support for
13 generalized *appellate* claims of error—meaning that Petitioner's claims in the
14 docketing statement were general, conclusory, and not described to this Court with
15 sufficient detail to present the issues and demonstrate to us that the district court
16 erred. [CN 2-3]

17 {5} With respect to Petitioner's allegations of error occurring in district court,
18 Petitioner asserts that the record was incomplete because the process unfairly
19 prohibited her from presenting and challenging evidence. [MIO 5-23] Petitioner
20 asserts that it was error for the priority consultant, Mr. Stone, to not interview

1 Petitioner’s counselor after having received the counselor’s report. [MIO 7-8, 10,
2 13, 16-17, 20, 23] Although Petitioner emphasizes this point, she still does not
3 explain: why her counselor’s report did not address the best interests of the children,
4 what she proffered in the district court proceedings about what Petitioner’s counselor
5 would have stated in a supplemental interview, how granting Petitioner’s request
6 might have changed the result, what rule of evidence or other authority was violated
7 by not allowing a supplemental interview, and what Petitioner’s due process
8 argument in district court included that would have required the supplemental
9 interview of her counselor. [CN 7] *See Mills v. N.M. State Bd. of Psych. Exam’rs*,
10 1997-NMSC-028, ¶ 19, 123 N.M. 421, 941 P.2d 502 (setting forth the factors to
11 weigh in assessing a claim of a due process violation); *see also Aetna Fin. Co. v.*
12 *Gaither*, 1994-NMSC-082, ¶ 15, 118 N.M. 246, 880 P.2d 857 (stating that the
13 appellants’ “bald assertion of error by the court is insufficient: simply alleging an
14 abuse of discretion does not make it so.” (internal quotation marks and citation
15 omitted)).

16 {6} Similarly, Petitioner also asserts that it was error for Mr. Stone not to review
17 Dr. Roll’s 2022 report, but again does not provide adequate detail to support this
18 allegation. [MIO 6, 8, 10, 13, 15-16, 18, 20, 23] Petitioner does not explain the
19 contents of the report, why it is relevant to the current proceedings, why Mr. Stone
20 believed it was irrelevant, how Mr. Stone’s review of the report would have changed

1 the result, what rule of evidence or other authority was violated by not considering
2 the report, and what her due process analysis in district court included that would
3 have required review of the report. [CN 2-3]

4 {7} Petitioner also asserts that Mr. Stone limited her examination of Respondent,
5 which prevented full development of the record. [MIO 2, 9, 16, 19] Petitioner does
6 not explain: how Mr. Stone limited her examination of Respondent, what Petitioner
7 asked Respondent and could not ask Respondent, what she expected further
8 examination to elicit, what authority was violated, how she preserved this error, and
9 how further examination would have changed the result.

10 {8} Because Petitioner did not provide us with this information in response to our
11 summary calendar notice, which required Petitioner's response to provide necessary
12 context and authority to support her contentions, we are not persuaded by
13 Petitioner's claims of error. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107
14 N.M. 421, 759 P.2d 1003 (stating that "[a] party responding to a summary calendar
15 notice must come forward and specifically point out errors of law and fact," and
16 explaining that the repetition of earlier arguments does not fulfill this requirement),
17 *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-
18 031, ¶ 3, 297 P.3d 374; *see also Lee v. Lee (In re Adoption of Doe)*, 1984-NMSC-
19 024, ¶ 2, 100 N.M. 764, 676 P.2d 1329 ("We have long held that to present an issue
20 on appeal for review, an appellant must submit argument and authority as required

1 by rule . . . Issues raised in appellate briefs which are unsupported by cited authority
2 will not be reviewed by us on appeal.” (emphasis and internal citations omitted)).
3 Petitioner needed to demonstrate error and shown how each error, if corrected,
4 would change the result. *See Morris v. Merchant*, 1967-NMSC-026, ¶ 24, 77 N.M.
5 411, 423 P.2d 606 (“The function of an appellate court is to correct an erroneous
6 result, and it will not correct errors which, even if corrected, will not change the
7 result.”); *Deaton v. Gutierrez*, 2004-NMCA-043, ¶ 31, 135 N.M. 423, 89 P.3d 672
8 (“[A]n assertion of prejudice is not a showing of prejudice, and in the absence of
9 prejudice, there is no reversible error.” (alteration, internal quotation marks, and
10 citation omitted)); *see also Hall v. City of Carlsbad*, 2023-NMCA-042, ¶ 5, 531 P.3d
11 642 (“On appeal, there is a presumption of correctness in the rulings and decisions
12 of the district court, and the party claiming error must clearly show error.” (internal
13 quotation marks and citation omitted)).

14 {9} Petitioner’s response also contends that our notice improperly treated
15 Petitioner’s appeal as a challenge to the weight and credibility determinations of the
16 fact-finders below. [MIO 11, 16] We are not persuaded that our analysis was in error.
17 Because Petitioner has not provided adequate context or descriptions of her claims
18 about the district court process and the evidence for this Court’s review, our review
19 has been limited to the evidence we have gleaned from the record proper. [CN 3] As
20 we explained in the notice, our review indicated that conflicting evidence was

presented as to whether there was a substantial change that would warrant a change in the visitation and custody arrangement. [CN 3-5] *See Jeantete v. Jeantete*, 1990-NMCA-138, ¶ 7, 111 N.M. 417, 806 P.2d 66 (showing that modification of a custody and child visitation arrangement is a matter entrusted to the sound discretion of the district court); *id.* ¶ 6 (providing that modification is proper on a showing of materially changed circumstances that affect the best interests of the child). “It is the sole responsibility of the trier of fact to weigh the testimony, determine the credibility of the witnesses, reconcile inconsistencies, and determine where the truth lies, and we, as the reviewing court, do not weigh the credibility of . . . witnesses.” *N.M. Tax’n & Revenue Dep’t v. Casias Trucking*, 2014-NMCA-099, ¶ 23, 336 P.3d 436 (alteration, internal quotation marks, and citation omitted). The finder of fact was free to rely on the opinion of the children’s counselor, rather than the opinion of Petitioner and her counselor, and to find that there was an insufficient showing of a material change in circumstances that would warrant a change in custody and visitation. *See Autrey v. Autrey*, 2022-NMCA-042, ¶ 9, 516 P.3d 207 (“The testimony of a single witness, if found credible by the district court, is sufficient to constitute substantial evidence supporting a finding.”).

{10} Petitioner also asserts that her claims are not well-suited for the summary calendar and warrant full briefing. [MIO 9, 12, 14, 20-21] However, this Court carefully chooses which calendar a case is assigned and we have determined this

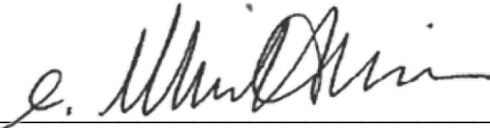
1 case should remain on the summary calendar.. *See, e.g., Udall v. Townsend*, 1998-
2 NMCA-162, ¶ 7, 126 N.M. 251, 968 P.2d 341 (“Neither due process nor equal
3 protection requires assignment to one calendar or the other. Nor is a party entitled to
4 a particular calendar assignment.” (citation omitted)). Also, Petitioner does not
5 suggest that our notice inaccurately described the evidence upon which it relied. Nor
6 does Petitioner’s response provide us with complete information or any legal
7 analysis of the facts that would support her claims and give rise to specific legal or
8 factual concerns that would warrant assignment to the general calendar.

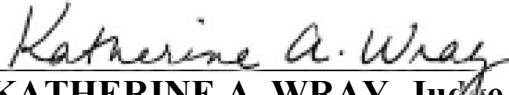
9 {11} Petitioner does not point out any other errors of law or fact in our notice with
10 reference to the record proper or applicable authority, as is her burden. *See*
11 *Mondragon*, 1988-NMCA-027, ¶ 10. Therefore, we hold that Petitioner has not
12 demonstrated error. For the reasons provided above and in our proposed analysis,
13 we affirm the district court’s order denying Petitioner’s motion to modify custody.

14 {12} **IT IS SO ORDERED.**

15 
16 **SHAMMARA H. HENDERSON, Judge**

17 **WE CONCUR:**

18 
19 **J. MILES HANISEE, Judge**

20 
21 **KATHERINE A. WRAY, Judge**