

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

JASON RUPP,

Petitioner-Appellant,

v.

**RACHEL SULLIVAN
f/k/a RACHEL RUPP,**

Respondent-Appellee.

**APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY
Amber Chavez Baker, District Court Judge**

Jason Rupp
Albuquerque, NM

Pro Se Appellant

Batley Riley Family Law, P.A.
Lauren E. Riley
L. Helen Bennett
Albuquerque, NM

for Appellee

MEMORANDUM OPINION

MEDINA, Chief Judge.

{1} Petitioner Jason Rupp appeals following an order entered by the district court
on November 3, 2025. [RP 254-61] We entered a calendar notice, proposing to
affirm. Petitioner filed a memorandum in opposition, which we have duly
considered. Unpersuaded, we affirm.

Court of Appeals of New Mexico
Filed 9/28/2026 7:54 AM



Mark Reynolds

1 {2} We begin by noting that this case originated as an enforcement matter based
2 on a contract, a marital settlement agreement (MSA), entered into between the
3 parties and incorporated by stipulation into the district court's order dissolving the
4 parties' marriage. [RP 83, 120-21] Following an evidentiary hearing relating to
5 several motions filed by the parties, including a motion to enforce the MSA filed by
6 Respondent, [RP 103-113] the district court entered an order concluding that
7 Petitioner violated several provisions of the MSA and holding him in contempt,
8 which Petitioner has appealed from. [2 RP 254-63]

9 {3} In Petitioner's memorandum, he contends that "[t]he district court's contempt
10 finding is legally deficient because it fails to address the required element of
11 willfulness." [MIO 3] Petitioner states that "[c]ivil contempt requires willful
12 noncompliance with a clear court order and must comport with due process" and
13 directs us to "*Concha v. Sanchez*, 2011-NMCA-031, ¶ 24, 149 N.M. 435, 250 P.3d
14 279," and "*State ex rel. Children, Youth & Families Department v. Ruth Ann E.*,
15 1999-NMCA-035, ¶ 21, 126 N.M. 670, 974 P.2d 164." [MIO 2] Regarding the
16 former, we presume Petitioner intended to cite *Concha v. Sanchez*, 2011-NMSC-
17 031, ¶ 24, 150 N.M. 268, 258 P.3d 1060, however, although both cases address due
18 process, neither paragraph Respondent cites to in either case stands for the
19 proposition that a civil contempt requires willful noncompliance.

1 {4} Recently, in *Board of County Commissions, Harding County v. New Mexico*
2 *Taxation and Revenue Department*, our Supreme Court stated, “The elements
3 necessary for a district court to find civil contempt are: (1) knowledge of the court’s
4 order, and (2) an ability to comply. Willfulness is not required.” 2021-NMSC-007,
5 ¶ 30, 480 P.3d 870 (alteration, internal quotation marks, and citation omitted). For
6 this reason, we conclude Petitioner’s contentions regarding the district court’s
7 alleged failure to evaluate whether his lack of compliance with the MSA was willful
8 does not establish that the district court erred.

9 {5} Regardless, even if willfulness was a required element, Petitioner specifically
10 indicates in his memorandum that he intentionally did not comply with the MSA,
11 apparently on the advice of his counsel. The memorandum states that Petitioner
12 “testified that he acted in reliance on instructions from prior counsel not to complete
13 a financial transfer required by the MSA.” [MIO 3] Consequently, even if willfulness
14 was required, we would still affirm the district court because, by his own admission,
15 Respondent willfully violated the MSA.

16 {6} Petitioner next asserts that “[t]he district court’s findings regarding life
17 insurance, compliance, and credibility are not supported by the record.” [MIO 6] We
18 understand this assertion of error to relate to the district court’s finding related to a
19 Northwestern Mutual Life Insurance Policy and Petitioner’s failure to assist
20 Respondent as required by paragraph 6(i) of the MSA. [2 RP 255] As we noted in

our calendar notice, it is an appellant’s burden to provide this Court with all the relevant facts to evaluate an issue. [CN 3-4] In his memorandum, Petitioner continues not to provide this Court with enough relevant facts to evaluate this issue. *See Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063 (“The presumption upon review favors the correctness of the [district] court’s actions. [An a]ppellant must affirmatively demonstrate its assertion of error.”).

{7} We note that Section 6 of the MSA concerns Respondent’s separate property. [1 RP 72] Section 6(i) states that Respondent will receive as her separate property “[h]er life insurance policy through Northwestern Mutual.” [Id.] That provision also states that Respondent shall begin making payments on the premium for the policy on January 1, 2025, and that Petitioner “shall assist in providing the information to [Respondent] necessary to do that.” [Id.] In Respondent’s motion to enforce the MSA, she stated that, pursuant to Section 6(i), Petitioner “was to provide information to [Respondent] to assist her in retaining her life insurance policy with Northwestern Mutual—his employer—so that she could begin making payments on the premium by January 1, 2025.” [1 RP 106] That motion further contended that the district court should order Petitioner to provide Respondent with the necessary information to allow her to retain and pay on the policy. [Id.] In a separate response to a different motion, Respondent contended that Petitioner managed the policy and

1 that Respondent had requested information necessary for her to make payments on
2 the premium beginning January 1, 2025. [1 RP 152]

3 {8} As we noted in the calendar notice, hearings related to the issues raised on
4 appeal occurred on May 23, 2025, September 11, 2025, and September 25, 2025.
5 [CN 4] Following the September 11 hearing, the district court entered an order
6 finding that Petitioner had not met his obligations under Section 6(i), his testimony
7 on the issue was not credible, and that the insurance policy, “if still active, shall not
8 be retained by [Respondent] and she shall not pay any reimbursements to [Petitioner]
9 for any amounts paid to the policy premium following the entry of the” MSA. [1 RP
10 234] In the November 11, 2025 order, following the September 25, 2025 evidentiary
11 hearing, the district court again found that Petitioner had the ability to assist
12 Respondent but did not, and therefore did not meet his obligations under Section 6(i)
13 of the MSA. [2 RP 255]

14 {9} In his memorandum, Petitioner challenges the district court’s findings as not
15 being supported by substantial evidence and claims that “[a] finding is not supported
16 by substantial evidence where it is based on a misapprehension of the evidence or
17 fails to account for material evidence in the record.” [MIO 6] In support of this
18 contention, Petitioner cites the following cases: “*State v. Salas*, 1999-NMCA-099,
19 ¶ 13, 127 N.M. 686, 986 P.2d 482; *Las Cruces Prof’l Fire Fighters v. City of Las*
20 *Cruces*, 1997-NMCA-031, ¶ 7, 123 N.M. 239, 938 P.2d 1384.” [Id.] However, the

1 cited portions of both cases again do not stand for the proposition Petitioner claims.
2 Indeed, our case law indicates the opposite. *See Mayeux v. Winder*, 2006-NMCA-
3 028, ¶ 11, 139 N.M. 235, 131 P.3d 85 (recognizing that on review of the district
4 court’s factual findings, the presence of evidence supporting the opposite result is
5 not relevant); *Jaynes v. Wal-Mart Store No. 824*, 1988-NMCA-076, ¶ 8, 107 N.M.
6 648, 763 P.2d 82 (“It is for the trier of fact to weigh the evidence, determine the
7 credibility of witnesses, reconcile inconsistent statements of the witnesses, and
8 determine where the truth lies.”).

9 {10} Petitioner’s contentions as to this issue operate based on the presumption that
10 his cited case law is accurate and supports his contentions. Additionally, his
11 contentions focus mainly on the ownership of the policy, which did not appear to be
12 in dispute, or are based on his own selective testimony, which the district court found
13 not credible. [MIO 6-7] *Id.* Given Petitioner’s misstatement of the law and failure to
14 provide a coherent narrative of the relevant facts that would permit us to evaluate
15 this issue, we conclude that Petitioner has failed to meet his burden in demonstrating
16 reversible error. *See Farmers, Inc.*, 1990-NMSC-100, ¶ 8. We therefore affirm the
17 district court’s finding that Petitioner violated Section 6(i) of the MSA because he
18 failed to provide Respondent the necessary information for her to begin making
19 payments on the life insurance policy. To the extent Petitioner is arguing that he had
20 no obligation under Section 6(i) to do anything until Respondent made payments on

1 the life insurance policy, we disagree. [MIO 10-12] The plain language of the MSA
2 indicates that payment of the premiums was contingent on Petitioner assisting
3 Respondent by providing the information necessary to do that, which the district
4 court's findings reflect he did not do.

5 {11} Petitioner next continues to assert error premised upon the district court
6 ordering the parties' tax refund to be sent to Respondent's attorney who was then
7 required to send a check containing Petitioner's portion of the refund to Petitioner's
8 attorney. [2 RP 258] In our calendar notice, we proposed, in part, to conclude that
9 the parties had stipulated to this process and the issue was therefore not reviewable
10 by this Court. *See Haaland v. Baltzley*, 1990-NMSC-086, ¶ 14, 110 N.M. 585, 798
11 P.2d 186 ("Facts stipulated to are not reviewable on appeal."). However, despite the
12 district court's order clearly indicating the parties had agreed to this process,
13 Petitioner now contends that "[t]he record does not reflect any affirmative agreement
14 by [Petitioner] or his counsel to this proposal." [MIO 13]

15 {12} Assuming this is the case, we would still conclude that the district court did
16 not err. Petitioner does not assert that either he or his counsel objected to the proposal
17 and he therefore permitted the order to be entered containing the stipulation. *See*
18 *Kysar v. BP Am. Prod. Co.*, 2012-NMCA-036, ¶ 14, 273 P.3d 867 ("New Mexico .
19 . . . adheres to the general rule that a judgment by consent is not appealable."); *Gallup*
20 *Trading Co. v. Michaels*, 1974-NMSC-048, ¶ 5, 86 N.M. 304, 523 P.2d 548 (holding

1 that when the appellant consented to the entry of summary judgment against him, he
2 lost his right to appeal). We are therefore skeptical that Petitioner could now
3 challenge the stipulation contained within the district court’s order on appeal. Even
4 assuming appeal were permissible, Petitioner does not indicate that he raised this
5 issue with the district court and thus it was not preserved. *See Woolwine v. Furr’s,*
6 *Inc.*, 1987-NMCA-133, ¶ 20, 106 N.M. 492, 745 P.2d 717 (“To preserve an issue
7 for review on appeal, it must appear that appellant fairly invoked a ruling of the trial
8 court on the same grounds argued in the appellate court.”).

9 {13} Regardless, we fail to see how Petitioner was prejudiced. He does not contend
10 that he has been unable to obtain his tax refund and appears to only challenge,
11 without citation to any relevant authority, the district court’s authority and chosen
12 method to ensure both parties received their portion of the tax refund. *See Nguyen v.*
13 *Bui*, 2023-NMSC-020, ¶ 20, 536 P.3d 482 (refusing to consider an issue that is
14 undeveloped, lacks support from cited authority and principled analysis, and requires
15 our own speculation to address the issue); *Aetna Fin. Co. v. Gaither*, 1994-NMSC-
16 082, ¶ 15, 118 N.M. 246, 880 P.2d 857 (stating that the appellants’ “bald assertion
17 of error by the [district] court is insufficient,” and clarifying that simply alleging
18 error by the district court “does not make it so” (internal quotation marks and citation
19 omitted)). “An error is harmless unless the complaining party can show that it
20 created prejudice.” *Kennedy v. Dexter Consol. Schs.*, 2000-NMSC-025, ¶ 26, 129

1 N.M. 436, 10 P.3d 115. Because we cannot ascertain any prejudice to Petitioner that
2 resulted from the district court’s chosen method of distribution of the tax refund, we
3 affirm the district court as to this issue. *See Deaton v. Gutierrez*, 2004-NMCA-043,
4 ¶ 31, 135 N.M. 423, 89 P.3d 672 (stating that “in the absence of prejudice, there is
5 no reversible error” (alteration, internal quotation marks, and citation omitted)).

6 {14} In the last issue discussed in Petitioner’s memorandum, Petitioner continues
7 to blame one of the attorneys he employed below for instructing him to not conduct
8 certain transactions required by the MSA, as well as a subsequent attorney for failing
9 to present evidence of those communications with his prior counsel as a defense.

10 [MIO 15-20] In our calendar notice, we proposed to conclude that a party is bound
11 by the conduct of his or her attorney and that any instruction given to Petitioner by
12 his counsel and acted on by Petitioner was not a basis for reversal. [CN 6] *See Padilla*
13 *v. Est. of Griego*, 1992-NMCA-021, ¶ 18, 113 N.M. 660, 830 P.2d 1348 (referring
14 to the general rule “binding a party to the conduct of [their] attorney”). Petitioner
15 has provided this Court with no basis to reevaluate that proposed conclusion, and
16 thus we affirm the district court as to this issue. *See State v. Mondragon*, 1988-
17 NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that “[a] party responding
18 to a summary calendar notice must come forward and specifically point out errors
19 of law and fact,” and the repetition of earlier arguments does not fulfill this
20 requirement), *superseded by statute on other grounds as stated in State v. Harris*,

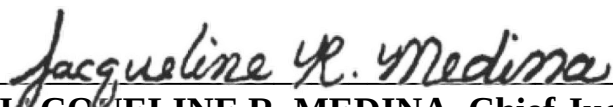
1 2013-NMCA-031, ¶ 3, 297 P.3d 374. Petitioner appears to attempt to shift the blame
2 from his attorneys to the district court and recast the issue as a denial of due process.
3 [MIO 14] The district court, however, did not proceed on an incomplete record, as
4 Petitioner asserts. [MIO 15] Instead, Petitioner’s citations to the transcript
5 demonstrate that the district court acknowledged that Petitioner, through counsel,
6 had not provided evidence to support his position. The district court continued the
7 hearing twice and provided Petitioner three opportunities to be heard. [1 RP 134,
8 232] The record does not indicate Petitioner requested more time. We therefore
9 decline to reverse on due process grounds.

10 {15} Lastly, we address the remaining motions Petitioner filed with this Court that
11 were not denied in this Court’s July 1, 2026 order. On May 6 and 8, 2026, Petitioner
12 filed separate motions seeking to amend his docketing statement. On May 14, 2026,
13 Petitioner filed a motion to amend his memorandum in opposition. This Court has
14 reviewed and considered all three motions. The motions appear almost identical to
15 documents already filed in this Court, and what little was added does not cause us to
16 reevaluate our conclusions in this opinion. Those motions are therefore **DENIED**.
17 Additionally, on June 22, 2026, Petitioner filed a motion to correct and supplement
18 the record proper. However, as we understand it, that motion does not seek to add
19 any documents to the record. Instead, the motion requests “verification” that the
20 record proper was correct. The record proper was appropriately filed in this Court

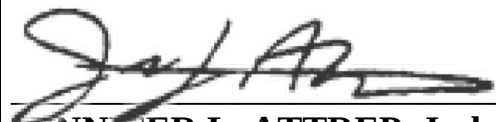
1 on February 10, 2026, pursuant to Rule 12-209 NMRA. We note also that the
2 transcript of the proceedings and any exhibits filed below are not provided to this
3 Court while the case remains on the summary calendar. See Rule 12-210(D)(1)
4 NMRA. The June 22, 2026 motion, is therefore **DENIED**.

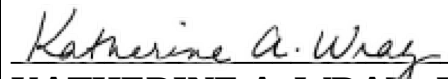
5 {16} Accordingly, and for the reasons stated in our notice of proposed disposition,
6 we affirm.

7 {17} **IT IS SO ORDERED.**

8 
9 **JACQUELINE R. MEDINA, Chief Judge**

10 **WE CONCUR:**

11 
12 **JENNIFER L. ATTREP, Judge**

13 
14 **KATHERINE A. WRAY, Judge**