

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

ROBERTO RODRIGUEZ,

Plaintiff-Appellant,

v.

Court of Appeals of New Mexico
Filed 10/7/2026 7:11 AM



Mark Reynolds

No. A-1-CA-42441

**OFFICE OF THE DISTRICT ATTORNEY
FOR THE THIRTEENTH JUDICIAL
DISTRICT, BARBARA ROMO, District
Attorney, and MELISSA HOWDEN, Chief
Administrative Officer,**

Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT OF SANDOVAL COUNTY
Allison P. Martinez, District Court Judge**

Roberto Rodriquez
Chaparral, NM

Pro Se Appellant

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

for Appellees

MEMORANDUM OPINION

HENDERSON, Judge.

{1} Plaintiff appeals following the district court's order granting Defendants' motion to dismiss filed pursuant to Rule 1-012(B)(6) NMRA. We entered a calendar

1 notice proposing to affirm. Plaintiff filed a memorandum in opposition, which we
2 have duly considered. Unpersuaded, we affirm.

3 {2} In our calendar notice we noted the following. [CN 2-3] Plaintiff's complaint
4 concerned an Inspection of Public Records Act (IPRA), NMSA 1978, §§ 14-2-1 to
5 -12 (1947, as amended through 2025), request he filed with Defendants, which
6 requested all documents related to a criminal case involving Plaintiff. [RP 1, 15]
7 According to the complaint and the accompanying exhibits, Plaintiff filed his IPRA
8 request on April 3, 2023, and Defendants responded on April 6, 2023 with a letter
9 and a "CD and 300+ pages of documents." [RP 3, 15] The complaint alleges that
10 Plaintiff discovered an issue when he viewed the file folders on the CD marked "FBI
11 poly 1, FBI poly 2, FBI poly 3, and Pictures," [RP 3] but the complaint makes no
12 contentions that Defendants did not provide all the records responsive to Plaintiff's
13 IPRA request, that any documents were improperly withheld, or that the response
14 from Defendants was untimely. Instead, the complaint alleges that Defendants
15 "tampered with this IPRA request by editing the information within the files." [RP
16 5]

17 {3} We proposed to conclude in our calendar notice that Plaintiff's complaint did
18 not state a cause of action under IPRA. [CN 4-5] *See Delfino v. Griffo*, 2011-NMSC-
19 015, ¶ 9, 150 N.M. 97, 257 P.3d 917 ("Dismissals under Rule 1-012(B)(6) are proper
20 when the claim asserted is legally deficient."). Without a citation to any relevant

1 legal authority or providing meaningful analysis, Plaintiff asserts in his
2 memorandum in opposition that what he received in response to his IPRA request
3 “was not complete” and that he made this contention in page three of his complaint.
4 [MIO 4] We have again reviewed the complaint in its entirety and nowhere therein
5 did Plaintiff contend that he did not receive all documents he was entitled to under
6 his IPRA request. This contention is therefore unpreserved. *See Benz v. Town Ctr.*
7 *Land, LLC*, 2013-NMCA-111, ¶ 24, 314 P.3d 688 (“To preserve an issue for review
8 on appeal, it must appear that appellant fairly invoked a ruling of the [district] court
9 on the same grounds argued in the appellate court.” (internal quotation marks and
10 citation omitted)). To the extent Plaintiff is contending that Defendants “denied [his]
11 IPRA request on an inapplicable privilege and exemption,” we would conclude the
12 same. [MIO 7] *Id.* Additionally, Plaintiff does not identify in his memorandum in
13 opposition what document Defendants wrongfully withheld or indicate what
14 privilege or exemption Defendants relied on that was inapplicable. *See Nguyen v.*
15 *Bui*, 2023-NMSC-020, ¶ 20, 536 P.3d 482 (refusing to consider an issue that is
16 undeveloped, lacks authority and principled analysis, and requires our own
17 speculation to address the issue, rather than the carefully considered discussion from
18 the parties).

19 {4} Instead, it is apparent both from the complaint and Plaintiff’s contentions in
20 his memorandum in opposition that his issue with Defendants’ response to his IPRA

1 request is premised upon Plaintiff's allegation that the polygraph results contained
2 within the response were tampered with. [MIO 10; RP 1-12] Indeed, Plaintiff's
3 memorandum in opposition states that he did "not get ALL the evidence because
4 [he] was illegally coerced by the FBI and [they] committed the crime of tampering
5 with [his] polygraph[,] which is [a] public record[] and the Defendants knew or
6 should have known that [his] file was comp[ro]mised, thus, making the Defendants
7 criminals." *Id.*

8 {5} Plaintiff has not provided this Court with a basis to doubt our proposed
9 conclusion in our calendar notice that IPRA does not recognize a cause of action in
10 this circumstance and his allegations regarding tampering of some of the documents
11 he received focus on a party that was not made part of the action below. *See Ortiz v.*
12 *Shaw*, 2008-NMCA-136, ¶ 17, 145 N.M. 58, 193 P.3d 605 ("Proper service of
13 process is required before a court can exercise jurisdiction over a defendant and
14 render a binding judgment."). Additionally, Plaintiff does not address our proposed
15 conclusion in the calendar notice that the facts alleged in the complaint did not
16 establish that the documents were tampered with. [CN 5-6] *See State v. Mondragon*,
17 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 ("A party responding to a
18 summary calendar notice must come forward and specifically point out errors of law
19 and fact," and the repetition of earlier arguments does not fulfill this requirement.),
20 *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-

1 031, ¶ 3, 297 P.3d 374; *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-
2 NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063 (explaining that we presume correctness
3 in the district court’s ruling and hold the appellant to the burden of affirmatively
4 demonstrating the claimed error).

5 {6} We note that Plaintiff attached to his memorandum in opposition what appears
6 to be self-transcribed transcripts of hearings below. “It is improper for a party to
7 attach to its briefs documents that were not part of the record below.” *King v. Allstate*
8 *Ins. Co.*, 2004-NMCA-031, ¶ 20, 135 N.M. 206, 86 P.3d 631. We therefore do not
9 consider them in the disposition of this case. *See In re Aaron L.*, 2000-NMCA-024,
10 ¶ 27, 128 N.M. 641, 996 P.2d 431 (“This Court will not consider and counsel should
11 not refer to matters not of record in their briefs.”).

12 {7} Lastly, Plaintiff raised a number of other issues in his docketing statement that
13 we addressed in our calendar notice. [CN 6-8] Plaintiff’s memorandum in opposition
14 again provides no basis for this Court to doubt our proposed conclusions in the
15 calendar notice. *Mondragon*, 1988-NMCA-027, ¶ 10; *Farmers, Inc.*, 1990-NMSC-
16 100, ¶ 8.

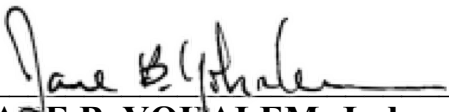
17 {8} Accordingly, we affirm.

18 {9} **IT IS SO ORDERED.**

19
20 
SHAMMAR M. HENDERSON, Judge

1 **WE CONCUR:**

2 
3 **JACQUELINE R. MEDINA, Chief Judge**

4 
5 **JANE B. YOHALEM, Judge**