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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 11/19/2026 10:25 AM
Mark Reynolds

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v. **No. A-1-CA-43577**

JOSEPH A. DELATORRE,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF GRANT COUNTY
Tom F. Stewart, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Santa Fe, NM
Steven J. Forsberg, Assistant Public Defender
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

HANISEE, Judge.

{1} Defendant appeals the jury's verdict finding him guilty of possession of a controlled substance and the conditional discharge order based on the jury's verdict. In this Court's notice of proposed disposition, we proposed to summarily affirm. Defendant filed a memorandum in opposition (MIO), which we have duly considered. Remaining unpersuaded, we affirm.

{2} In his MIO, Defendant continues to challenge the sufficiency of the evidence to support his conviction, which we understand to include a continued challenge to the district court's denial of directed verdict at the close of evidence. [MIO 1] Defendant's MIO maintains that because six of seven tablets found in Defendant's possession were not tested, the evidence supports the possibility that Defendant did not believe that any of the tablets contained an illegal substance. [MIO 1] However, as we explained in the notice of proposed disposition, the jury was free to reject Defendant's version of the facts, and this Court will not reweigh the evidence on appeal. [CN 4-5] *See State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829 ("Contrary evidence supporting acquittal does not provide a basis for reversal because the jury is free to reject [the d]efendant's version of the facts."); *State v. Garcia*, 2005-NMSC-017, ¶ 12, 138 N.M. 1, 116 P.3d 72 ("The court should not re[]weigh the evidence to determine if there was another hypothesis that would support innocence or replace the fact-finder's view of the evidence with the appellate court's own view of the evidence.").

{3} Defendant has not otherwise asserted any fact, law, or argument in his MIO that persuades us that our notice of proposed disposition was erroneous. *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 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 Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 ("Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law."). Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm.

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

J. MILES HANISEE, Judge

WE CONCUR:

ZACHARY A. IVES, Judge

GERALD E. BACA, Judge