

ARMIJO V. KOHL'S

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TIIMOTHY ANDREW ARMIJO,
Worker-Appellant,
v.
KOHL'S and AIG,
Employer/Insurer-Appellees,

No. 32,396

COURT OF APPEALS OF NEW MEXICO

January 28, 2013

APPEAL FROM WORKERS' COMPENSATION ADMINISTRATION, Gregory D.
Griego, District Judge

COUNSEL

Timothy Andrew Armijo, Santa Fe, NM, Pro Se Appellant

Allen, Shepherd, Lewis, Syra, & Chapman, P.A., Kimberly A. Syra, Albuquerque, NM,
for Appellee Kohl's

JUDGES

CYNTHIA A. FRY, Judge. WE CONCUR: MICHAEL E. VIGIL, Judge, LINDA M. VANZI,
Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

Timothy Armijo (Worker) filed a notice of appeal/docketing statement in this Court on September 19, 2012. Worker indicates that he has filed other appeals in this case, "twice a year for the past three years." [Informal DS, p. 27] We note the last item in the

record proper of this worker's compensation case, WCA No. 08-53699, is this Court's mandate issued on April 11, 2012, and this Court's memorandum opinion issued on February 21, 2012, affirming the March 17, 2011 compensation order, and the April 7, 2011 order denying Worker's second motion for reconsideration. [RP 154, 166, 169, 194, 195] This Court's calendar notice and the memorandum opinion in the previous appeal address the same issues Worker raises in the present notice of appeal/docketing statement. [187, 192] Moreover, Worker is not presently appealing from a new worker's compensation administration order.

BACKGROUND

The calendar notice proposed to dismiss the appeal for the following reasons. First, the notice of appeal/docketing statement can be construed as an untimely motion for rehearing from this Court's February 21, 2012, opinion. See Rule 12-404(A) NMRA (stating that "[a] motion for rehearing may be filed within fifteen (15) days after filing of the appellate court's disposition, or any subsequent modification of its disposition, unless the time is shortened or enlarged by order. The three (3) day mailing period set forth in Rule 12-308 NMRA does not apply to the time limits set by this rule"). Second, because Worker raises the same issues and concerns in the present notice of appeal/docketing statement that he raised in the previous appeal, from which an opinion and mandate has issued, the law-of-the-case doctrine bars Worker's present notice of appeal/docketing statement. See, e.g., *Trujillo v. City of Albuquerque*, 1998-NMSC-031, ¶ 40, 125 N.M. 721, 965 P.2d 305 (discussing that generally, the law-of-the-case doctrine stands for the proposition that the law applied on the first appeal of a case is binding in the second appeal of that case; it "is a matter of precedent and policy, [and] a determination that, in the interests of the parties and judicial economy, once a particular issue in a case is settled it should remain settled" (internal quotation marks and citation omitted)).

DISCUSSION

In his memorandum, Defendant continues to articulate the same issues raised in the previous appeal that resulted in this Court's memorandum opinion and mandate. Moreover, in the memorandum, Worker does not address the reasons for dismissal that we discussed in the calendar notice, nor provide new facts or authorities that would persuade us that dismissal is inappropriate under the circumstances here. See *State v. Mondragon*, 107 N.M. 421, 423, 759 P.2d 1003, 1005 (Ct. App. 1988) (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).

CONCLUSION

We dismiss Worker's present appeal.

IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE CONCUR:

MICHAEL E. VIGIL, Judge

LINDA M. VANZI, Judge