

CITY OF AZTEC V. J GROH

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**CITY OF AZTEC, Plaintiff-Appellee,
v.
JOHN GROH, Defendant-Appellant.**

Docket No. 29,039

COURT OF APPEALS OF NEW MEXICO

May 1, 2009

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Sandra A. Price,
District Judge.

COUNSEL

Thrower Law Firm, Larry T. Thrower, Farmington, NM, for Appellee.

John Groh, Farmington, NM, Pro Se Appellant.

JUDGES

RODERICK T. KENNEDY, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
JONATHAN B. SUTIN, Judge

AUTHOR: RODERICK T. KENNEDY

MEMORANDUM OPINION

KENNEDY, Judge.

Defendant appeals his conviction on three municipal ordinances in 2005. [DS Ex. A 1-3] Defendant asserts the district court violated his due process rights by improperly dismissing his de novo appeal and remanding his case for enforcement of the previous sentence under Rule 8-703 NMRA. This Court issued a calendar notice assigning this case to the summary calendar and proposing summary reversal on January 26, 2009. The City did not file a response to our proposed disposition. Defendant filed a

memorandum both in support and in opposition on February 17, 2009, arguing the charges against him should be dismissed because the district court lacked jurisdiction. We are unpersuaded by Defendant's arguments and reiterate the district court need not have granted Defendant's motion to dismiss the charges, but it should have provided Defendant with a de novo trial. That trial will provide Defendant with an opportunity to raise his other issues.

Accordingly, the district court's decision dismissing Defendant's appeal is reversed for the reasons stated in our calendar notice.

IT IS SO ORDERED.

RODERICK T. KENNEDY, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

JONATHAN B. SUTIN, Judge