

CITY OF ROSWELL V. NORIEGA

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**CITY OF ROSWELL,
Plaintiff-Appellee,
v.
CHARLES NORIEGA,
Defendant-Appellant.**

No. A-1-CA-36179

COURT OF APPEALS OF NEW MEXICO

February 19, 2018

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY, James M. Hudson,
District Judge

COUNSEL

Paul V. Sanchez, El Prado, NM, for Appellee

Charles Noriega, Roswell, NM, Pro Se Appellant

JUDGES

LINDA M. VANZI, Chief Judge. WE CONCUR: JULIE J. VARGAS, Judge, EMIL J. KIEHNE, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Chief Judge.

{1} Defendant Charles Noriega appeals in a self-represented capacity from the district court's judgment and sentence and order of remand following Defendant's de novo appeal from municipal court to district court. On appeal, Defendant contends that the municipal court and district court erred in not providing Defendant counsel and the

courts exercised judicial bias against him. This Court issued a notice of proposed disposition addressing these issues and proposing to affirm. Defendant has filed an informal memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} In this Court's notice of proposed disposition, we noted that in order for error to be reversible that error must be prejudicial. See *State v. Fernandez*, 1994-NMCA-056, ¶ 13, 117 N.M. 673, 875 P.2d 1104 ("In the absence of prejudice, there is no reversible error."). We further noted that Defendant did not appear to have met his burden of demonstrating prejudice on appeal. [CN 3] In his memorandum in opposition, Defendant does not inform this Court how not having counsel during the initial hearings, where the only charge that carried the possibility of imprisonment was dismissed prior to trial, prejudiced him. As a result, we conclude Defendant has not demonstrated error.

{3} Moreover, on the issue of judicial bias, Defendant provides no argument to counter this Court's notice of proposed disposition, relying solely on conclusory statements. 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point out errors of law and fact," and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d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."). As a result, we conclude that Defendant has not met his burden on appeal.

{4} Accordingly, we affirm.

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

LINDA M. VANZI, Chief Judge

WE CONCUR:

JULIE J. VARGAS, Judge

EMIL J. KIEHNE, Judge