

MONTES V. JOHNSON

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MARIA L. VARGAS MONTES,

Petitioner-Appellee,

v.

HOWARD JOHNSON,

Respondent-Appellant.

NO. 31,038

COURT OF APPEALS OF NEW MEXICO

May 25, 2011

APPEAL FROM THE DISTRICT COURT OF LUNA COUNTY, Daniel Viramontes,
District Judge

COUNSEL

Amy C. Delaney-Hernandez, Deming, NM, for Appellee

Howard Johnson, Deming, NM, Pro Se Appellant

JUDGES

MICHAEL E. VIGIL, Judge. WE CONCUR: JONATHAN B. SUTIN, Judge, LINDA M. VANZI, Judge

AUTHOR: MICHAEL E. VIGIL

MEMORANDUM OPINION

VIGIL, Judge.

Appellant Howard Johnson appeals pro se from the district court's ruling with regard to child support and custody. [RP 51, 70] Our March 8, 2011, notice proposed to dismiss for lack of finality. Appellant did not file a memorandum in opposition to our notice. See Rule 12-210(D)(3) NMRA. For reasons set forth in our notice, we dismiss for lack of

finality. See *Frick v. Veazey*, 116 N.M. 246, 247, 861 P.2d 287, 288 (Ct. App. 1993) (stating that the “[f]ailure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice”). We lastly acknowledge Appellant’s February 15, 2011, “motion for production and pretrial matters.” Given our dismissal for lack of finality, however, we lack jurisdiction to consider the merits of Appellant’s motion. We dismiss.

IT IS SO ORDERED.

MICHAEL E. VIGIL, Judge

WE CONCUR:

JONATHAN B. SUTIN, Judge

LINDA M. VANZI, Judge