

PADILLA V. CITY OF ALBUQUERQUE

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JOSE L. PADILLA,
Plaintiff-Appellant,
v.
CITY OF ALBUQUERQUE and
MARCOS HOLLOWAY,
Defendants-Appellees.

No. 32,258

COURT OF APPEALS OF NEW MEXICO

April 22, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Valerie Mackie
Huling, District Judge

COUNSEL

Acton Law Firm, P.C., Gregory M. Acton, Albuquerque, NM, for Appellant

Office of the City Attorney, Michael I. Garcia, Albuquerque, NM, for Appellees

JUDGES

CYNTHIA A. FRY, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
MICHAEL E. VIGIL, Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

{1} Plaintiff, Jose L. Padilla, appeals from the district court's grant of summary judgment in favor of Defendants, City of Albuquerque and Marcos Holloway. On December 7, 2012, we issued a notice proposing to summarily affirm. Plaintiff's counsel,

Gregory M. Acton, received two extensions of time to file a memorandum in opposition to our notice. On January 24, 2013, Mr. Acton filed an unopposed motion to withdraw as counsel for Plaintiff. On February 6, 2013, we issued an order granting Mr. Acton's motion to withdraw and providing Plaintiff with thirty days to file a memorandum in opposition to our notice, noting that no further extensions would be granted. Plaintiff has not filed a memorandum in opposition to our notice proposing summary affirmance. "Failure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice." *Frick v. Veazey*, 116 N.M. 246, 247, 861 P.2d 287, 288 (Ct. App. 1993). Accordingly, we affirm the district court's grant of summary judgment in favor of Defendants.

{2} IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

MICHAEL E. VIGIL, Judge