

STATE V. GONZALEZ

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
OMAR ENRIQUE GONZALEZ,
Defendant-Appellant.**

NO. 33,884

COURT OF APPEALS OF NEW MEXICO

March 3, 2015

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Darren M. Kugler,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, for Appellee

Jorge A. Alvarado, Chief Public Defender, Santa Fe, NM, Sergio J. Viscoli, Assistant Appellate Defender, Albuquerque, NM, for Appellant

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: JONATHAN B. SUTIN, Judge, CYNTHIA A. FRY, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

{1} Defendant appeals from a district court order revoking his probation and re-sentencing him. We issued a calendar notice proposing to affirm. Defendant has responded with a memorandum in opposition. We affirm.

{2} Defendant continues to challenge the district court sentence, which was imposed after Defendant did not contest that he violated probation. Sentences are reviewed for an abuse of discretion, and there is no abuse of discretion where the sentence imposed is one that is authorized by law. See *State v. Cumpston*, 2000-NMCA-033, ¶ 10, 129 N.M. 47, 1 P.3d 429.

{3} Defendant has abandoned issue B. [MIO 3] See *State v. Johnson*, 1988-NMCA-029, ¶ 8, 107 N.M. 356, 758 P.2d 306. We do not address this argument further, except to note that we remain persuaded that summary affirmance is appropriate based on the analysis in our notice.

{4} Defendant has continued to argue that the district court relied on misinformation and denied him the opportunity to correct the error. Specifically, Defendant claims that the judge stated, “He has already killed one person” as the judge walked away from the bench. [MIO 3] It does not appear that this comment is part of the record and therefore is not subject to review on appeal. See *In re Aaron L.*, 2000-NMCA-024, ¶ 27, 128 N.M. 641, 996 P.2d 431. In addition, Defendant did not include any alleged correction in his motion for reconsideration, which was denied by the district court. [RP 129, 131] Accordingly, we affirm the district court judgment and sentence.

{5} IT IS SO ORDERED.

LINDA M. VANZI, Judge

WE CONCUR:

JONATHAN B. SUTIN, Judge

CYNTHIA A. FRY, Judge