

STATE V. HENDERSON

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
LIESHA HENDERSON,
Defendant-Appellant.

No. 36,077

COURT OF APPEALS OF NEW MEXICO

May 22, 2017

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Jacqueline D.
Flores, District Judge

COUNSEL

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

Liesha Henderson, Grants, NM, Pro Se Appellant

JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge, HENRY
M. BOHNHOFF, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant, self-represented on appeal, challenges her convictions for kidnapping, abuse of a child, and attempted child abuse. We issued a notice of proposed disposition proposing to dismiss the appeal, and Defendant has responded with a memorandum in opposition as well as an “Addenda to Application for Appellate

Review.” We have carefully considered Defendant’s submissions but continue to believe that dismissal is warranted in this case. Therefore, for the reasons set out below and in our notice of proposed summary disposition, we dismiss.

{2} In our notice we discussed the fact that Defendant’s plea agreement did not reserve any issues for appeal, and pointed to case law indicating that such an unconditional plea waives a defendant’s right to challenge her convictions or sentence on direct appeal. See *State v. Chavarria*, 2009-NMSC-020, ¶¶ 9, 17, 146 N.M. 251, 208 P.3d 896. We also noted the difficulty posed by the fact that a defendant may not attack a plea agreement for the first time on appeal, but must instead file a motion to withdraw the plea in district court before requesting relief from this Court. See *State v. Andazola*, 2003-NMCA-146, ¶ 25, 134 N.M. 710, 82 P.3d 77. Defendant’s memorandum in opposition acknowledges our citations to *Chavarria* and *Andazola*, but does not explain how those cases are inapplicable to this case. Instead, the memorandum in opposition attacks the validity of Defendant’s plea agreement, arguing (among other things) that she received ineffective assistance of counsel, that she was unable to understand the terms of the plea agreement or the consequences of entering into such an agreement, that there was insufficient evidence to convict her of kidnapping, that her right to be free from double jeopardy was violated, and that the judicial system in New Mexico is racially biased. [MIO *passim*] All of these arguments are directed at the validity of Defendant’s plea and resulting convictions, and it is undisputed that she has not yet challenged her plea in the district court. At this point, therefore, Defendant is limited to raising these arguments in collateral proceedings such as habeas corpus; there is nothing for us to review on appeal, and this case must be dismissed. See *Andazola*, 2003-NMCA-146, ¶ 25; see also *Chavarria*, 2009-NMSC-020, ¶ 17.

{3} Based on the foregoing as well as the discussion in our notice of proposed summary disposition, we dismiss Defendant’s appeal.

{4} IT IS SO ORDERED.

M. MONICA ZAMORA, Judge

WE CONCUR:

LINDA M. VANZI, Chief Judge

HENRY M. BOHNHOFF, Judge