

**STATE V. JOHNSON**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellee,  
v.  
ROBERT E. JOHNSON,  
Defendant-Appellant.**

NO. A-1-CA-36541

COURT OF APPEALS OF NEW MEXICO

March 19, 2018

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Fernando R.  
Macias, District Judge

**COUNSEL**

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

Bennett J. Baur, Chief Public Defender, Steven J. Forsberg, Assistant Public Defender,  
Albuquerque, NM, for Appellant

**JUDGES**

LINDA M. VANZI, Chief Judge. WE CONCUR: J. MILES HANISEE, Judge, JULIE J.  
VARGAS, Judge

**AUTHOR:** LINDA M. VANZI

**MEMORANDUM OPINION**

**VANZI, Chief Judge.**

{1} Defendant Robert E. Johnson appeals his convictions for two counts of possession of a controlled substance and one count of possession of marijuana, all contrary to NMSA 1978, Section 30-31-23(A) (2011), [RP 89-92] pursuant to a

conditional plea [RP 81-87] that reserved the right to appeal the denial of his motion to suppress [RP 82]. In response to Defendant's docketing statement, we proposed to affirm. Defendant has filed a memorandum in opposition (MIO). After due consideration, we are unpersuaded and therefore affirm.

**{2}** Defendant has not persuaded us in his MIO that there was an error of law or fact in our proposed disposition. Accordingly, for the reasons stated in our notice of proposed summary disposition and above, we affirm. See *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063 (stating that our appellate courts presume that the trial court is correct and, accordingly, the burden is on the appellant to clearly demonstrate that the trial court erred); *Hennessey v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“[I]n summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law.”).

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

**LINDA M. VANZI, Chief Judge**

**WE CONCUR:**

**J. MILES HANISEE, Judge**

**JULIE J. VARGAS, Judge**