

STATE V. JUAREZ

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JENNIFER JUAREZ,
Defendant-Appellant.**

No. 34,154

COURT OF APPEALS OF NEW MEXICO

March 25, 2015

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

COUNSEL

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

Jorge A. Alvarado, Chief Public Defender, Sergio Viscoli, Appellate Defender, B. Douglas Wood III, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

JAMES J. WECHSLER, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge, J. MILES HANISEE, Judge

AUTHOR: JAMES J. WECHSLER

MEMORANDUM OPINION

WECHSLER, Judge.

{1} Defendant appeals her conviction, pursuant to a guilty plea [RP 94], for one count of intentional child abuse (no death or great bodily harm). [RP 113] Our notice

proposed to affirm and Defendant filed a memorandum in opposition. Unpersuaded by Defendant's arguments, we affirm.

{2} Defendant continues to argue that she was coerced into entering a guilty plea in order to be released from custody. [DS 2; MIO 2, 5] Defendant emphasizes that trial counsel contributed to such asserted coercion and was ineffective by failing to procure documentation for an alibi defense and by failing to file a motion to withdraw her plea prior to appeal. [DS 2; MIO 3, 6] In support of her continued arguments, Defendant refers to *State v. Franklin*, 1967-NMSC-151, 78 N.M. 127, 428 P.2d 982, and *State v. Boyer*, 1985-NMCA-029, 103 N.M. 655, 712 P.2d 1. [MIO 3, 4, 7]

{3} For the reasons extensively detailed in our notice, we affirm. In doing so, we emphasize as we did in our notice that the necessary facts to support Defendant's claims of ineffective assistance of counsel were not developed in the record. However, Defendant is not precluded from pursuing her claims of ineffective assistance of counsel in habeas proceedings. [MIO 7] See *State v. Herrera*, 2001-NMCA-073, ¶ 37, 131 N.M. 22, 33 P.3d 22 (expressing a preference for habeas corpus proceedings over remand when the record on appeal does not support the factual basis for an issue on appeal).

{4} For the reasons provided in our notice and above, we affirm.

{5} IT IS SO ORDERED.

JAMES J. WECHSLER, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

J. MILES HANISEE, Judge