

**STATE V. M. MONTOYA**

This memorandum opinion was not selected for publication in the New Mexico 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 Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions.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-Appellant,  
v.  
**MELANIE MONTOYA,**  
Defendant-Appellee.

NO. 28,833

COURT OF APPEALS OF NEW MEXICO

January 6, 2009

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY, Frank K. Wilson,  
District Judge

**COUNSEL**

Gary K. King, Attorney General, Ann M. Harvey, Assistant Attorney General, Santa Fe, NM, for Appellant

Hugh W. Dangler, Chief Public Defender, Santa Fe, NM, for Appellee

**JUDGES**

CELIA FOY CASTILLO, Judge. WE CONCUR: JONATHAN B. SUTIN, Chief Judge,  
CYNTHIA A. FRY, Judge

**AUTHOR:** CELIA FOY CASTILLO

**MEMORANDUM OPINION**

**CASTILLO, Judge.**

The State appeals from an order granting Defendant's motion for default judgment in a forfeiture action. We proposed to affirm in a notice of proposed summary disposition,

and the State has filed a response indicating that it is unable to present any additional facts or legal arguments to dispute our proposed disposition.

Although the State concedes the issue, we independently review the proceedings to insure that the record supports our proposed disposition. See *State v. Maes*, 100 N.M. 78, 80, 665 P.2d 1169, 1171 (Ct. App. 1983), *abrogated on other grounds as stated in State v. Armijo*, 2005-NMCA-010, ¶ 27, 136 N.M. 723, 104 P.3d 1114. After reviewing the record, we affirm for the reasons set forth in our notice of proposed summary disposition.

**IT IS SO ORDERED.**

**CELIA FOY CASTILLO, Judge**

**WE CONCUR:**

**JONATHAN B. SUTIN, Chief Judge**

**CYNTHIA A. FRY, Judge**