

STATE V. NEWKIRK

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
THOMAS J. NEWKIRK,
Defendant-Appellant.**

No. 35,435

COURT OF APPEALS OF NEW MEXICO

October 19, 2016

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY, Drew D. Tatum,
District Judge

COUNSEL

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

Bennett J. Baur, Chief Public Defender, B. Douglas Wood III, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: M. MONICA ZAMORA, Judge,
STEPHEN G. FRENCH, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

{1} Defendant Thomas J. Newkirk appeals from his convictions by jury of aggravated burglary and larceny of a firearm. In this Court's notice of proposed disposition, filed July 26, 2016, we proposed to summarily affirm. Defendant filed a memorandum in

opposition to proposed summary affirmance (MIO), which we have duly considered. Remaining unpersuaded, we affirm Defendant's convictions.

{2} In his memorandum in opposition, Defendant raises no new arguments or facts regarding his sufficiency argument that are not otherwise addressed by this Court's notice of proposed disposition. Rather, Defendant reiterates the same facts and arguments already made and contends that, in this case, the circumstantial evidence should not be sufficient to support his convictions. [See MIO 1, 4-7] These arguments were addressed in our notice of proposed disposition [see CN 9-10], so we refer Defendant to our reasoning and analysis therein.

{3} Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm Defendant's convictions.

{4} IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

M. MONICA ZAMORA, Judge

STEPHEN G. FRENCH, Judge