

STATE V. PACHECO

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JUSTIN PACHECO,
Defendant-Appellant.**

NO. 34,089

COURT OF APPEALS OF NEW MEXICO

January 8, 2015

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Brett R.
Loveless, District Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, for Appellee

Law Offices of the Public Defender, Jorge A. Alvarado, Chief Public Defender, Santa Fe, NM, Steven J. Forsberg, Assistant Appellate Defender, Albuquerque, NM, for Appellant

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
JAMES J. WECHSLER, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

{1} Defendant Justin Pacheco appeals from his conviction for driving while under the influence of intoxicating liquor or drugs (DWI) entered by the metropolitan court and

subsequently affirmed by the district court following an on-record review. [DS 2; RP 55, 61, 62] In this Court's notice of proposed disposition, we proposed to affirm. Defendant filed a memorandum in opposition, which we have duly considered. We remain unpersuaded by Defendant's arguments and therefore affirm.

{2} We proposed to hold that the trial court did not abuse its discretion by allowing the State to recall Officer Alvidrez before the State had rested its case-in-chief. [CN 2] See *State v. McAdams*, 1972-NMCA-029, ¶ 13, 83 N.M. 544, 494 P.2d 622 (holding that the trial court did not abuse its discretion when it allowed the State to recall an officer to the witness stand during its case-in-chief, despite the fact that the officer had already been excused from the witness stand). We instructed Defendant that if he wished this Court to reach a different conclusion, he should demonstrate why this Court's reliance on *McAdams* is incorrect. [CN 2-3]

{3} Defendant's memorandum in opposition does not address *McAdams*. Instead, Defendant asks this Court to adopt a standard from Illinois. [MIO 1-2] We decline this invitation.

{4} For the reasons discussed in this Opinion and in our notice of proposed summary disposition, we affirm.

{5} IT IS SO ORDERED.

LINDA M. VANZI, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

JAMES J. WECHSLER, Judge