

STATE V. ROBINSON

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
EARL SCOTT ROBINSON,
Defendant-Appellant.

No. 32,344

COURT OF APPEALS OF NEW MEXICO

February 18, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Neil C.
Candelaria, District Judge

COUNSEL

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

Earl Scott Robinson, Albuquerque, NM, Pro Se Appellant

JUDGES

CYNTHIA A. FRY, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
JAMES J. WECHSLER, Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

Defendant appeals from the district court's memorandum order denying his motion to dismiss entered in district court case CR-1999-3961. This Court's first notice proposed to dismiss the appeal for lack of a final order. Defendant filed a memorandum in

opposition to the proposed disposition. We are not persuaded by Defendant's arguments and dismiss the appeal.

Defendant's memorandum in opposition does not respond to this Court's proposed disposition, or otherwise explain that the order was final. "A party opposing summary disposition is required to come forward and specifically point out errors in fact and/or law." *State v. Ibarra*, 116 N.M. 486, 489, 864 P.2d 302, 305 (Ct. App. 1993); see *State v. Johnson*, 107 N.M. 356, 358, 758 P.2d 306, 308 (Ct. App. 1988) (providing that when a case is decided on the summary calendar, an issue is deemed abandoned where a party fails to respond to the proposed disposition of the issue). As discussed in our calendar notice, the memorandum order denying Defendant's motion to dismiss is not a final judgment. See *State v. Garcia*, 99 N.M. 466, 471, 659 P.2d 918, 923 (Ct. App. 1983) (stating that in a criminal case, the final judgment is the judgment and sentence or an order dismissing all the charges against the defendant).

For these reasons, and those stated in the first calendar notice, we dismiss the appeal for lack of a final order.

IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

JAMES J. WECHSLER, Judge