

**STATE V. TOVAR**

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**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
**v.**  
**CARLOS TOVAR,**  
Defendant-Appellant.

No. 32,518 consolidated with 32,156

COURT OF APPEALS OF NEW MEXICO

April 1, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Stan Whitaker,  
District Judge

**COUNSEL**

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

Scott M. Davison, Albuquerque, NM, for Appellant

**JUDGES**

CYNTHIA A. FRY, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,  
MICHAEL D. BUSTAMANTE, Judge

**AUTHOR:** CYNTHIA A. FRY

**MEMORANDUM OPINION**

**FRY, Judge.**

{1} Defendant had appealed from the district court's judgment and sentence, entered pursuant to a jury trial, convicting him for the charges of first degree kidnapping, second degree criminal sexual penetration, and aggravated battery of a household member causing great bodily harm. We were not persuaded that Defendant's docketing

statement demonstrated error and issued a notice of proposed summary disposition, proposing to affirm. Defendant filed several pleadings in this Court, but no memorandum in opposition in Case Number 32,156 and no docketing statement in Case Number 32,518. We issued several orders in response to defense counsel's conduct, including an order to show cause in person and an order quashing the order to show cause that also consolidated Case Numbers 32,156 and 32,518, and ordered Defendant to file either a memorandum in opposition or a notice of intent that no memorandum in opposition will be filed. Defendant has filed a notice of intent to waive the filing of the memorandum in opposition. For the reasons set forth in the notice, therefore, we affirm the district court's judgment and sentence.

**{2} IT IS SO ORDERED.**

**CYNTHIA A. FRY, Judge**

**WE CONCUR:**

**RODERICK T. KENNEDY, Chief Judge**

**MICHAEL D. BUSTAMANTE, Judge**