

STATE V. UPCHURCH

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
AARON J. UPCHURCH,
Defendant-Appellant.

No. 31,671

COURT OF APPEALS OF NEW MEXICO

July 18, 2012

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, John A. Dean,
District Judge

COUNSEL

Gary K. King, Attorney General, M. Victoria Wilson, Assistant Attorney General, Santa Fe, NM, for Appellee

Jacqueline Cooper, Chief Public Defender, Adrienne R. Turner, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: JAMES J. WECHSLER, Judge, RODERICK T. KENNEDY, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

Defendant-Appellant Aaron Upchurch (Defendant) has appealed his convictions for larceny, burglary, conspiracy to commit larceny, and conspiracy to commit burglary. On

May 2, 2012, we issued a second notice of proposed summary disposition, proposing to affirm in part and reverse in part. The State has filed a response with this Court indicating that it does not oppose our analysis. Defendant has also filed a memorandum in response in which he indicates that he substantially agrees, while renewing his claim of ineffective assistance of counsel. With respect to this claim, Defendant advances no new argument. We therefore remain unpersuaded.

Accordingly, for the reasons stated in the second notice of proposed summary disposition, we affirm Defendant's convictions for larceny, burglary, and conspiracy to commit larceny. We reverse Defendant's conviction for conspiracy to commit burglary, as well as the habitual offender sentence enhancement, and remand for further proceedings consistent herewith.

IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

RODERICK T. KENNEDY, Judge