

STATE V. VASQUEZ

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
STEPHEN LOUIS VASQUEZ,
Defendant-Appellant.

No. 36,007

COURT OF APPEALS OF NEW MEXICO

May 30, 2017

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Briana H.
Zamora, District Judge

COUNSEL

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

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JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge, JAMES J. WECHSLER, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant appeals from a district court judgment entered after he pled no contest to twelve felonies, most committed during multiple car-jackings. We issued a calendar

notice proposing to affirm. Defendant has responded with a memorandum in opposition. We affirm.

{2} Defendant continues to argue that his sentence violates the prohibition against cruel and unusual punishment. [MIO 2] In this case, Defendant was indicted on thirty felony counts. [RP 1] Defendant entered a plea agreement in which he pled no contest to twelve of these counts. [RP 84] Defendant's plea contained no agreement as to sentence, and the potential incarceration was up to 59½ years. [RP 87] As Defendant acknowledges [MIO 4], under the circumstances, our Supreme Court has determined that a claim of cruel and unusual punishment is not properly presented. See *State v. Chavarria*, 2009-NMSC-020, ¶¶ 9-10, 146 N.M. 251, 208 P.3d 896 (holding that the entry of an unconditional plea of guilty operates as a waiver of the right to raise a cruel and unusual punishment claim on appeal). This Court is bound by this precedent. See *State v. Trevizo*, 2011-NMCA-069, ¶ 9, 150 N.M. 158, 257 P.3d 978 (noting that the Court of Appeals must follow applicable precedents of the Supreme Court).

{3} For the reasons set forth above, we affirm.

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

M. MONICA ZAMORA, Judge

WE CONCUR:

LINDA M. VANZI, Chief Judge

JAMES J. WECHSLER, Judge