

STATE V. ZUNIGA

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
GERALD RAY ZUNIGA,
Defendant-Appellant.

NO. 29,906

COURT OF APPEALS OF NEW MEXICO

January 6, 2010

APPEAL FROM THE DISTRICT COURT DOÑA ANA COUNTY, Lisa C. Schultz, District
Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, Max Shepherd, Assistant Attorney
General, Albuquerque, NM, for Appellee

Hugh W. Dangler, Chief Public Defender, Santa Fe, NM, Loni J. Hodge, Assistant
Public Defender, Las Cruces, NM, for Appellant

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: RODERICK T. KENNEDY, Judge,
LINDA M. VANZI, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

Defendant has appealed from the revocation of his probation, challenging the
sufficiency of the evidence to support the enhancement of his sentence pursuant to

NMSA 1978, Section 31-18-17 (2003). We issued a notice of proposed summary disposition, proposing to reverse and remand for resentencing. The State has filed a responsive document entitled "Memorandum in Opposition," which expresses no opposition to our proposal to reverse for want of an adequate showing below, and which expresses agreement with our proposal to remand for resentencing.

Accordingly, for the reasons stated, we reverse and remand for resentencing.

IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

RODERICK T. KENNEDY, Judge

LINDA M. VANZI, Judge