

**WISHNESKI V. SANDERS**

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**JOHNATHAN D. WISHNESKI,**  
Plaintiff-Appellant,

**v.**

**MAXINE MONTOYA TONY  
SANDERS, LIEUTENANT  
DOMINGUEZ, and GERMAN  
FRANCO,**  
Defendants-Appellees.

No. 32,371

COURT OF APPEALS OF NEW MEXICO

February 12, 2013

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY, Raymond Z. Ortiz,  
District Judge

**COUNSEL**

Johnathan D. Wishneski, Santa Fe, NM, Pro Se Appellant

NM Department of Corrections, Diana J. Harris, Santa Fe, NM, for Appellee Maxine Montoya

**JUDGES**

CYNTHIA A. FRY, Judge. WE CONCUR: JAMES J. WECHSLER, Judge, LINDA M. VANZI, Judge

**AUTHOR:** CYNTHIA A. FRY

**MEMORANDUM OPINION**

**FRY, Judge.**

Plaintiff has filed a motion to adopt this Court's proposed summary disposition. Defendants have not responded to the calendar notice and the time for requesting an extension of time or responding to the notice has expired. For the reasons set forth in the calendar notice, we reverse the district court's order of dismissal and remand for trial on the merits.

**IT IS SO ORDERED.**

**CYNTHIA A. FRY, Judge**

**WE CONCUR:**

**JAMES J. WECHSLER, Judge**

**LINDA M. VANZI, Judge**