

STATE V. ACOSTA

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MARIO MATA ACOSTA,
Defendant-Appellant.**

NO. A-1-CA-36580

COURT OF APPEALS OF NEW MEXICO

September 17, 2018

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY, Gary L. Clingman, District
Judge

COUNSEL

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

Bennett J. Baur, Chief Public Defender, Nina Lalevic, Assistant Public Defender, Santa Fe, NM, for Appellant

JUDGES

MICHAEL E. VIGIL, Judge. WE CONCUR: EMIL J. KIEHNE, Judge, DANIEL J. GALLEGOS, Judge

AUTHOR: MICHAEL E. VIGIL

MEMORANDUM OPINION

VIGIL, Judge.

{1} Defendant Mario Mata Acosta appeals from his conviction, after a jury trial, of the unlawful taking of a motor vehicle, contrary to NMSA 1978, Section 30-16D-1(A)(1) (2009). In this Court's notice of proposed disposition, we proposed to summarily affirm.

Defendant filed a memorandum in opposition (MIO), which we have duly considered. Remaining unpersuaded, we affirm.

{2} Defendant continues to argue that his statement should have been suppressed as it was not knowing, intelligent, and voluntary. [MIO 2] However, Defendant has not asserted any new facts or presented any authority or arguments to persuade this Court that our notice of proposed disposition was erroneous. [See MIO 2-5; see also MIO 4 n.1] See *Hennessey v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law.”); *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore refer Defendant to our analysis in our notice of proposed disposition.

{3} Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm Defendant’s conviction.

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

MICHAEL E. VIGIL, Judge

WE CONCUR:

EMIL J. KIEHNE, Judge

DANIEL J. GALLEGOS, Judge