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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

No. A-1-CA-34883

BRADY BRUNSON,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF ROOSEVELT COUNTY

Donna J. Mowrer, District Judge

Hector H. Balderas, Attorney General
Santa Fe, NM

Lauren J. Wolongevicz, Assistant Attorney General
Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender
B. Douglas Wood III, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

HANISEE, Judge.

{1} Defendant Brady Brunson appeals from his convictions by a jury for possession of a controlled substance (methamphetamine), contrary to NMSA 1978, § 30-31-20 (2006) and possession of drug paraphernalia, contrary to NMSA 1978, § 30-31-25.1 (2001). On appeal, the sole claim of error Defendant raises is that the district court erred by denying his motion to suppress all evidence arising out of a traffic stop that Defendant contends was not justified by reasonable suspicion. The State responds by conceding that reasonable suspicion did not justify the traffic stop. Although we are not bound by the State's concession, having reviewed the record on appeal, we accept it.

See *State v. Guerra*, 2012-NMSC-027, ¶ 9, 284 P.3d 1076 (accepting the state's concession that there was insufficient evidence to support the defendant's tampering conviction although appellate courts are not required to do so). We agree with the State that the relevant facts do not support the district court's conclusion that "the traffic stop [was] based on a reasonable suspicion of criminal activity." Accordingly, we reverse the district court's denial of Defendant's motion to suppress and remand to the district court to vacate Defendant's convictions.

{2} IT IS SO ORDERED.

J. MILES HANISEE, Judge

WE CONCUR:

KRISTINA BOGARDUS, Judge

MEGAN P. DUFFY, Judge