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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-37981

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

TOMMY HERBURGER,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
T. Glenn Ellington, District Judge**

Hector H. Balderas, Attorney General
Maris Veidemanis, Assistant Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

HANISEE, Chief Judge.

{1} Defendant appeals his convictions for aggravated assault with a deadly weapon (firearm) and shooting at or from a motor vehicle. This Court issued a notice of proposed disposition, proposing to summarily reverse and remand to the district court. The State filed a response to our calendar notice, stating that it “will not be filing a memorandum in opposition[.]” Accordingly, and for the reasons stated in our notice of proposed disposition, we reverse and remand for further proceedings consistent with our calendar notice.

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

J. MILES HANISEE, Chief Judge

WE CONCUR:

JENNIFER L. ATTREP, Judge

BRIANA H. ZAMORA, Judge