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**IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

**No. A-1-CA-39375**

**STATE OF NEW MEXICO,**

Plaintiff-Appellant,

v.

**JOSE HERNANDEZ,**

Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT OF LINCOLN COUNTY**

**Daniel A. Bryant, District Judge**

Hector H. Balderas, Attorney General  
Santa Fe, NM  
Walter M. Hart, III, Assistant Attorney General  
Albuquerque, NM

for Appellant

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

for Appellee

**MEMORANDUM OPINION**

**MEDINA, Judge.**

{1} The State appeals the district court's order granting Defendant's motion to dismiss. In this Court's notice of proposed disposition, we proposed to summarily affirm. Subsequently, the State filed with this Court a notice that it does not oppose our proposed summary disposition. Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm the district court.

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

**JACQUELINE R. MEDINA, Judge**

**WE CONCUR:**

**MEGAN P. DUFFY, Judge**

**JANE B. YOHALEM, Judge**