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

**No. A-1-CA-38752**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**MARK ALLEN MCCOY,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

**Daylene A. Marsh, District Judge**

Hector H. Balderas, Attorney General  
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender  
Santa Fe, NM  
Steven J. Forsberg, Assistant Appellate Defender  
Albuquerque, NM

for Appellant

**MEMORANDUM OPINION**

**BOGARDUS, Judge.**

{1} Defendant appeals from his conviction for driving under the influence of intoxicating liquor or drugs. This Court issued a notice of proposed disposition proposing to affirm the district court's judgment and sentence. Defendant filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} On appeal, Defendant raises three issues alleging district court error required reversal of his conviction [Amended DS 4], which we proposed to affirm in this Court's notice of proposed disposition. In response, Defendant continues to assert that (1)

Deputy Gonzales should not have been allowed to testify because he was not a credible witness; (2) “[t]here was no violation of law when the driving occurred on a business parking lot and not on a public highway”; and (3) the district court abused its discretion in not granting Defendant’s motion for a directed verdict when he “only moved the vehicle a short distance and thus there was not enough time for him to be in actual physical control” of the vehicle. [MIO 1-2] Defendant, however, points to no error in fact or law in this Court’s notice of proposed disposition. See *State v. Ibarra*, 1993-NMCA-040, ¶ 11, 116 N.M. 486, 864 P.2d 302 (“A party opposing summary disposition is required to come forward and specifically point out errors in fact and/or law.”).

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

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

**KRISTINA BOGARDUS, Judge**

**WE CONCUR:**

**JACQUELINE R. MEDINA, Judge**

**JANE B. YOHALEM, Judge**