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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-39678

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

EUGENIO GARCIA IBARRA,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY

Matthew E. Chandler, District Judge

Hector H. Balderas, Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Kathleen T. Baldrige, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

IVES, Judge.

{1} Defendant appeals his conviction for driving while under the influence of liquor (DWI) (impaired) (3rd offense). We entered a notice of proposed summary disposition, proposing to affirm. Defendant filed a memorandum in opposition to that notice, which we have duly considered. Unpersuaded, we affirm.

{2} Defendant argues that the State's evidence was insufficient to establish beyond a reasonable doubt that Defendant was actually driving the vehicle. [MIO 2-5] Defendant, however, has not cited any authority not already considered by this Court, has not cited any portion of the record suggesting our understanding of the relevant facts is incorrect,

and has not otherwise convinced us that our initial proposed disposition on this point is erroneous. 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. Aragon*, 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d 1211 (stating that there is a presumption of correctness in the rulings or decisions of the district court, and the party claiming error bears the burden of showing such error). Therefore, for the reasons stated in our notice of proposed disposition [CN 3-4], we find that sufficient evidence supported Defendant’s conviction. See also *State v. Mailman*, 2010-NMSC-036, ¶¶ 23, 26-28, 148 N.M. 702, 242 P.3d 269 (recognizing that the state may introduce direct or circumstantial evidence that the defendant drove while intoxicated); see also *State v. Orquiz*, 2012-NMCA-080, ¶ 4, 284 P.3d 418 (“[E]vidence of past driving, though circumstantial, is nonetheless sufficient for a jury to infer that [the d]efendant actually drove while impaired when considered alongside [the d]efendant’s known BAC.”). We affirm.

{3} IT IS SO ORDERED.

ZACHARY A. IVES, Judge

WE CONCUR:

JENNIFER L. ATTREP, Judge

MEGAN P. DUFFY, Judge