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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40016

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

LORRISA GARCIA,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY

Matthew E. Chandler, District Judge

Hector H. Balderas, Attorney General
Santa Fe, NM
Van Snow, Assistant Attorney General
Albuquerque, NM

for Appellee

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

for Appellant

MEMORANDUM OPINION

MEDINA, Judge.

{1} Following a trial by jury, Defendant appeals from her deferred sentence for possession of a controlled substance (methamphetamine) and tampering with evidence. Defendant challenges the sufficiency of the evidence to support her convictions. We issued a notice of proposed disposition proposing to affirm her convictions, to which Defendant filed a memorandum in opposition. Upon our consideration of Defendant's memorandum in opposition, we issued a second notice proposing to affirm Defendant's conviction for possession of methamphetamine and to reverse and remand for

proceedings to vacate Defendant's conviction for tampering with evidence. In response to this Court's second notice, Defendant filed a notice of nonfiling and intent to rely on the arguments raised in her first memorandum in opposition, and the State filed a notice of nonopposition stating that it did not intend to file a memorandum in opposition.

{2} For the reasons outlined in our second notice of proposed disposition, Defendant's memorandum in opposition did not persuade this Court that our initial proposal to affirm Defendant's conviction for possession of methamphetamine was erroneous. As such, for the reasons outlined in our first and second notices of proposed disposition, we propose to affirm that conviction. Further, in the absence of opposition from either party, for the reasons outlined in our second calendar notice, we conclude that the evidence was not sufficient to support Defendant's conviction for tampering with evidence.

{3} Accordingly, for the reasons outlined herein and in our notices of proposed disposition, we reverse and remand for proceedings to vacate Defendant's conviction for tampering with evidence and we affirm Defendant's conviction for possession of methamphetamine.

{4} IT IS SO ORDERED.

JACQUELINE R. MEDINA, Judge

WE CONCUR:

SHAMMARA H. HENDERSON, Judge

JANE B. YOHALEM, Judge