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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40808

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

**ALTON P. SMITH a/k/a
ALTON PETE SMITH,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY
Drew D. Tatum, District Court Judge**

Raúl Torrez, Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Jasmine Solomon, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

DUFFY, Judge.

{1} Defendant appeals his conviction for possession of methamphetamine. We issued a notice of proposed summary disposition proposing to affirm. Defendant has responded with a timely memorandum in opposition. After due consideration, we remain unpersuaded. We therefore affirm.

{2} Defendant continues to challenge the sufficiency of the evidence to support his conviction. However, Defendant has not asserted any facts, law, or argument that

persuade us that our notice of proposed disposition was erroneous. See generally *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. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that “[a] party responding to a summary calendar notice must come forward and specifically point out errors of law and fact,” and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. Accordingly, we adhere to our initial assessment of this matter, and reject this assertion of error.

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

{4} IT IS SO ORDERED.

MEGAN P. DUFFY, Judge

WE CONCUR:

J. MILES HANISEE, Judge

KRISTINA BOGARDUS, Judge