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

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 **v.**

No. 33,877

5 **TERRANCE JOHNSON,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

8 **Michael Martinez, District Judge**

9 Gary K. King, Attorney General

10 Nicole Beder, Assistant Attorney General

11 Santa Fe, NM

12 for Appellee

13 Law Offices of the Public Defender

14 Jorge A. Alvarado, Chief Public Defender

15 Santa Fe, NM

16 Jennifer K. Trujillo, Assistant Appellate Defender

17 Albuquerque, NM

18 for Appellant

19 **MEMORANDUM OPINION**

20 **SUTIN, Judge.**

1 {1} Defendant appeals from the district court's order revoking his probation and
2 reinstating it for three more years. Unpersuaded that the State proved Defendant's
3 fugitive status within his probation period and that he was unentitled to credit for time
4 served on probation, we issued a notice of proposed summary disposition, proposing
5 to reverse the district court's order. In the absence of a such a showing, it appeared
6 to us that the district court should have given Defendant credit for time served on
7 probation and that the district court was without jurisdiction to revoke Defendant's
8 probation after his probationary term had ended. Accordingly, we proposed to reverse
9 and remand this case to the district court to vacate its order revoking and reinstating
10 Defendant's probation and to issue Defendant a certificate of satisfactory completion
11 of probation. The State has filed a response to our notice, indicating that it does not
12 oppose our proposal to summarily reverse on the grounds stated in the notice.

13 {2} Thus, for the reasons stated in the notice, we hold that the State did not establish
14 that Defendant was a fugitive from justice and that the district court was without
15 jurisdiction to revoke and reinstate Defendant's probation. Accordingly, we reverse
16 and remand this case to the district court to vacate its order revoking and reinstating
17 Defendant's probation and to issue Defendant a certificate of satisfactory completion
18 of probation.

19 {3} **IT IS SO ORDERED.**

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JONATHAN B. SUTIN, Judge

3 **WE CONCUR:**

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5 **RODERICK T. KENNEDY, Chief Judge**

6

7 **LINDA M. VANZI, Judge**