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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. 34,944

5 **EMMA ALVARADO-NATERA,**

6 Defendant-Appellant.

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

8 **James Waylon Counts, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Acting Chief Public Defender

13 Kathleen T. Baldrige, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **KENNEDY, Judge.**

1 {1} Defendant Emma Alvarado-Natera appeals from a judgment and sentence,
2 following a jury trial pursuant to which she was convicted of one count of possession
3 of methamphetamine and one count of possession of drug paraphernalia. [RP 222-23]
4 Unpersuaded by Defendant’s docketing statement, we entered a notice of proposed
5 summary disposition, proposing to affirm. In response to our notice, Defendant filed
6 a memorandum in opposition. After due consideration, we remain unpersuaded. We
7 therefore affirm.

8 {2} This Court’s proposed disposition explained that while there appeared to be a
9 viable basis for challenging the search of Defendant’s purse, *see State v. Light*, 2013-
10 NMCA-075, ¶ 42, 306 P.3d 534 (holding the search of the defendant’s purse was “not
11 supported by probable cause because the State failed to prove that the seizure of that
12 individual item was supported by probable cause and it failed to establish a connection
13 between the purse and the reason for the warrant” where the defendant was not subject
14 to the search warrant, but was on the premises at the time the warrant was executed),
15 without further development of the facts and an examination of the search warrant and
16 supporting affidavit—neither of which were introduced below—we could not
17 conclude that Defendant had made a prima facie case for ineffective assistance of
18 counsel. [CN 3-4] *See State v. Paredes*, 2004-NMSC-036, ¶ 22, 136 N.M. 533, 101
19 P.3d 799 (“[W]e have held when the record does not contain all the facts necessary

1 for a full determination of the issue, an ineffective assistance of counsel claim is more
2 properly brought through a habeas corpus petition[.]” (internal quotation marks and
3 citation omitted)). In response, Defendant attempts to convince this Court that the
4 facts in the record support suppression of the evidence pursuant to *Light*. [MIO 11-15]
5 While Defendant has clarified some of the facts and supplied a more complete version
6 of the facts as presented at trial, [MIO 2-4] we are not persuaded that suppression was
7 warranted.

8 {3} This Court recently addressed the question of whether personal property
9 belonging to a visitor, but found on the premises to be searched, falls within the scope
10 of a valid warrant. *Light*, 2013-NMCA-075, ¶ 33. In *Light*, this Court held that where
11 there is nothing to suggest that a visitor’s property—here, a purse—was connected to
12 the premises subject to a search warrant or to the illegal activity occurring there, any
13 search of that property was unlawful. *Id.* ¶ 46. In this case, when officers entered the
14 home subject to the search warrant, Defendant was found in a bathroom rummaging
15 through her purse with the toilet water running. [MIO 2] The homeowner and subject
16 of the warrant was also in the bathroom, hiding behind the door. [MIO 2] Under these
17 circumstances, we are not convinced that there is no connection between the purse and
18 alleged illegal activity occurring at the home. Accordingly, we conclude that
19 Defendant has not presented a prima facie case of ineffective assistance of counsel,

1 and we therefore decline to remand the case to the district court for an evidentiary
2 hearing. However, this decision does not preclude Defendant from pursuing habeas
3 corpus relief on these issues.

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

5 _____
6 **RODERICK T. KENNEDY, Judge**

7 **WE CONCUR:**

8 _____
9 **MICHAEL D. BUSTAMANTE, Judge**

10 _____
11 **JONATHAN B. SUTIN, Judge**