

1 Court issued a notice of proposed disposition, in which we proposed to reverse
2 Defendant's probation revocation on the basis that the State had failed to demonstrate
3 that Defendant willfully violated her probation, as it was unclear whether Defendant
4 knew that she was required to report. The State responded to this Court's notice
5 proposing to reverse by asserting that the evidence establishing non-compliance with
6 a condition of probation is sufficient to justify a finding that the failure was willful
7 unless Defendant comes forward with evidence to excuse the non-compliance. *See*
8 *State v. Parsons*, 1986-NMCA-027, ¶ 25, 104 N.M. 123, 717 P.2d 99. The State
9 asserted that, because Defendant had not come forward with any evidence at the
10 probation revocation hearing to establish that she was unaware of the requirement to
11 report, it had satisfied its burden.

12 {2} This Court issued a third calendar notice applying *Parsons* and proposing to
13 agree with the State. We proposed to rely on the analysis contained in this Court's first
14 notice of proposed disposition wherein we suggested that testimony by the
15 Defendant's probation officer that Defendant was supposed to report to him on March
16 3, 2016, but did not report until August 2016 was sufficient to establish a violation.
17 Thus, we proposed to conclude in our third calendar notice that Defendant then had
18 the burden of establishing below that the violation was not willful and, as Defendant

1 had failed to come forward with any evidence that she was unaware of the requirement
2 to report, affirmance appeared appropriate.

3 {3} In response, Defendant has filed a memorandum in opposition asserting that she
4 is relying on the arguments made in her previous memorandum in opposition filed on
5 April 5, 2017. We note, however, that Defendant's April 5, 2017, memorandum in
6 opposition does not address the burden shifting established by *Parsons* and on which
7 this Court's third notice of proposed disposition is based. A party responding to a
8 summary calendar notice must come forward and specifically point out errors of law
9 and fact, and the repetition of earlier arguments does not fulfill this requirement. *See*
10 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003.
11 Accordingly, we affirm.

12 {4} **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

15 **WE CONCUR:**

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STEPHEN G. FRENCH, Judge

1 **EMIL J. KIEHNE, Judge**