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

2 **JOSE L. PADILLA,**

3 Plaintiff-Appellant,

4 **v.**

No. 32,258

5 **CITY OF ALBUQUERQUE and**

6 **MARCOS HOLLOWAY,**

7 Defendants-Appellees.

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

9 **Valerie Mackie Huling, District Judge**

10 Acton Law Firm, P.C.

11 Gregory M. Acton

12 Albuquerque, NM

13 for Appellant

14 Office of the City Attorney

15 Michael I. Garcia

16 Albuquerque, NM

17 for Appellees

18 **MEMORANDUM OPINION**

19 **FRY, Judge.**

20 {1} Plaintiff, Jose L. Padilla, appeals from the district court's grant of summary

21 judgment in favor of Defendants, City of Albuquerque and Marcos Holloway. On

1 December 7, 2012, we issued a notice proposing to summarily affirm. Plaintiff's
2 counsel, Gregory M. Acton, received two extensions of time to file a memorandum
3 in opposition to our notice. On January 24, 2013, Mr. Acton filed an unopposed
4 motion to withdraw as counsel for Plaintiff. On February 6, 2013, we issued an order
5 granting Mr. Acton's motion to withdraw and providing Plaintiff with thirty days to
6 file a memorandum in opposition to our notice, noting that no further extensions
7 would be granted. Plaintiff has not filed a memorandum in opposition to our notice
8 proposing summary affirmance. "Failure to file a memorandum in opposition
9 constitutes acceptance of the disposition proposed in the calendar notice." *Frick v.*
10 *Veazey*, 116 N.M. 246, 247, 861 P.2d 287, 288 (Ct. App. 1993). Accordingly, we
11 affirm the district court's grant of summary judgment in favor of Defendants.

12 {2} **IT IS SO ORDERED.**

13

14

CYNTHIA A. FRY, Judge

15 **WE CONCUR:**

16

RODERICK T. KENNEDY, Chief Judge

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1 **MICHAEL E. VIGIL, Judge**