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

2 **CITY OF ALBUQUERQUE,**

3 Plaintiff-Appellee,

4 **v.**

No. 33,261

5 **ONE 1989 CHRYSLER,**

6 Defendant,

7 **and**

8 **RALPH N. LESTER,**

9 Claimant-Appellant.

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

11 **Alan M. Malott, District Judge**

12 Jenica L. Jacobi, Interim City Attorney

13 David Tourek, Assistant City Attorney

14 Albuquerque, NM

15 for Appellee

16 Ralph N. Lester

17 Albuquerque, NM

18 Pro Se Appellant

1 **MEMORANDUM OPINION**

2 **SUTIN, Judge.**

3 {1} Claimant appeals the district court’s judgment granting forfeiture of Claimant’s
4 vehicle. We issued a notice of proposed disposition proposing to affirm, and Claimant
5 has filed a memorandum in opposition to the proposed affirmance.

6 {2} We have reviewed the arguments made in the memorandum in opposition, but
7 are not convinced by those arguments. In particular, we point out that as we stated in
8 the notice, we are bound by Supreme Court precedent approving of the City’s
9 forfeiture process; this is true even though there may be factual differences between
10 this case and the Supreme Court cases cited in the notice. We also point out that with
11 respect to the issue concerning the City’s late disclosure of evidence, Claimant’s
12 argument is misplaced. He states that it is obvious that the belatedly disclosed
13 evidence prejudiced him; however, the question to be determined is not whether the
14 evidence itself was prejudicial, but whether Claimant was somehow prejudiced by the
15 late disclosure of that evidence. *See, e.g., Tartaglia v. Hodges*, 2000-NMCA-080,
16 ¶¶ 31-33, 129 N.M. 497, 10 P.3d 176. In other words, it was up to Claimant to show
17 that he did not have a fair opportunity to respond to the evidence for some reason
18 connected to the late disclosure. Claimant did not make such a showing and
19 affirmance is therefore warranted on that issue. As to all the other issues, we rely on

1 the discussion contained in the notice of proposed disposition, and we affirm for the
2 reasons stated in that notice.

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

4 _____
5 **JONATHAN B. SUTIN, Judge**

6 **WE CONCUR:**

7 _____
8 **JAMES J. WECHSLER, Judge**

9 _____
10 **LINDA M. VANZI, Judge**