	This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.
1	IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO
2	STATE OF NEW MEXICO
3	Plaintiff-Appellee,
4	v. No. 33,693
5	LORIE ESTELLE CAMPBELL
6	Defendant-Appellant.
	APPEAL FROM THE DISTRICT COURT OF DON <sup>*</sup> A ANA COUNTY Darren M. Kugler, District Judge
10	Hector H. Balderas, Attorney General Margaret McLean, Assistant Attorney General Santa Fe, NM
12	for Appellee
14	Jorge A. Alvarado, Chief Public Defender Sergio Viscoli, Appellate Defender Santa Fe, NM
16	for Appellant
17	MEMORANDUM OPINION
18	FRY, Judge.

The State appeals from the district court's order dismissing the indictment against Defendant for the charge of commercial burglary. This Court issued a stay 3 before addressing the merits of the State's appeal, pending our decision in *State v*. 4 Archuleta, \_\_\_\_\_-NMCA-\_\_\_, \_\_\_ P.3d \_\_\_\_ (No. 32,794, Oct. 27, 2014), cert. 5 granted, 2015-NMCERT-\_\_\_ (No. 35,005, Jan. 26. 2015), the first of many cases raising the same issue relative to the charge of commercial burglary. Relying on our opinion in Archuleta, we lifted the stay and issued a notice of proposed summary disposition, proposing to affirm on December 23, 2014. [Ct. App. file] The State has filed a response, objecting to our notice and requesting that we hold this appeal in abeyance or provide the State with a reasonable opportunity to seek guidance from the New Mexico Supreme Court on all pending appeals controlled by our opinion in Archuleta. [MIO 1-2] We have provided the State with such an opportunity, and the Supreme Court has denied the State a stay or other remedy that would suspend the precedential value of Archuleta. Thus, pursuant to Rule 12-405(C) NMRA, we apply Archuleta. See Rule 12-405(C) ("A petition for a writ of certiorari filed pursuant to Rule 12-502 NMRA or a Supreme Court order granting the petition does not affect the precedential value of an opinion of the Court 18 of Appeals, unless otherwise ordered by the Supreme Court.").

11

1	In its response to our notice, the State simply objects to our proposed
2	disposition without elaboration. [MIO 1] We continue to believe that there are no
3	material factual distinctions to remove this case from the control of our opinion in
4	Archuleta. For the reasons stated in our notice, we affirm the district court's order
5	granting Defendant's motion to dismiss the commercial burglary charge.
6	{3} IT IS SO ORDERED.
6 7 8	CYNTHIA A. FRY, Judge
ז	CINIIIA A. FKI, Juuge
10	WE CONCUR:
11	
	JONATHAN B. SUTIN, Judge
10	
13 14	MICHAEL D. BUSTAMANTE, Judge