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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. 33,751

5 **JAMES YOUNG,**

6 Defendant-Appellant.

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

8 **Jane Shuler Gray, District Judge**

9 Hector H. Balderas, Attorney General

10 Margaret McLean, Assistant Attorney General

11 Santa Fe, NM

12 for Appellee

13 Jorge A. Alvarado, Chief Public Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **SUTIN, Judge.**

1 {1} Defendant pled to burglary and possession of drug paraphernalia, reserving the
2 right to appeal the denial of a motion to dismiss. On December 4, 2014, we issued a
3 notice of proposed summary disposition in which we proposed to reverse.

4 {2} On February 2, 2015, the State filed a response with this Court, indicating that
5 it would be filing a motion for stay with the New Mexico Supreme Court and
6 requesting that we await a decision from that Court on the State's motion before
7 taking further action in this case. We have done so. The New Mexico Supreme Court
8 has recently denied the State's motion.

9 {3} Although it is less than entirely clear, the State's response may incorporate a
10 similar request that this Court stay or hold this case in abeyance pending a decision
11 from the New Mexico Supreme Court in *State v. Archuleta*, ____-NMCA-____, ____
12 P.3d. ____ (No. 32,794, Oct. 27, 2014), *cert. granted*, 2015-NMCERT-____, ____ P.3d
13 ____ (No. 35,005, Jan. 26, 2015). To the extent that such a request is made, it is
14 denied.

15 {4} Turning to the merits, we previously opined that Defendant's conviction for
16 burglary cannot stand in light of this Court's decision in *Archuleta*. The State indicates
17 that it "is unable to provide any additional facts or other legal argument in response
18 to the proposed disposition." [MIO 2-3]

1 {5} Accordingly, for the reasons stated in our notice of proposed summary
2 disposition, we reverse and remand for further proceedings consistent therewith.

3 {6} **IT IS SO ORDERED.**

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

6 **WE CONCUR:**

7 _____
8 **RODERICK T. KENNEDY, Judge**

9 _____
10 **TIMOTHY L. GARCIA, Judge**