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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. 34,089**

5       **JUSTIN PACHECO,**

6             Defendant-Appellant.

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

8       **Brett R. Loveless, District Judge**

9       Gary K. King, Attorney General

10       Santa Fe, NM

11       for Appellee

12       Law Offices of the Public Defender

13       Jorge A. Alvarado, Chief Public Defender

14       Santa Fe, NM

15       Steven J. Forsberg, Assistant Appellate Defender

16       Albuquerque, NM

17       for Appellant

18                                       **MEMORANDUM OPINION**

19       **VANZI, Judge.**

1 {1} Defendant Justin Pacheco appeals from his conviction for driving while under  
2 the influence of intoxicating liquor or drugs (DWI) entered by the metropolitan court  
3 and subsequently affirmed by the district court following an on-record review. [DS  
4 2; RP 55, 61, 62] In this Court's notice of proposed disposition, we proposed to  
5 affirm. Defendant filed a memorandum in opposition, which we have duly considered.  
6 We remain unpersuaded by Defendant's arguments and therefore affirm.

7 {2} We proposed to hold that the trial court did not abuse its discretion by allowing  
8 the State to recall Officer Alvidrez before the State had rested its case-in-chief. [CN  
9 2] *See State v. McAdams*, 1972-NMCA-029, ¶ 13, 83 N.M. 544, 494 P.2d 622  
10 (holding that the trial court did not abuse its discretion when it allowed the State to  
11 recall an officer to the witness stand during its case-in-chief, despite the fact that the  
12 officer had already been excused from the witness stand). We instructed Defendant  
13 that if he wished this Court to reach a different conclusion, he should demonstrate why  
14 this Court's reliance on *McAdams* is incorrect. [CN 2-3]

15 {3} Defendant's memorandum in opposition does not address *McAdams*. Instead,  
16 Defendant asks this Court to adopt a standard from Illinois. [MIO 1-2] We decline this  
17 invitation.

18 {4} For the reasons discussed in this Opinion and in our notice of proposed  
19 summary disposition, we affirm.

1 {5} **IT IS SO ORDERED.**

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**LINDA M. VANZI, Judge**

4 **WE CONCUR:**

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6 **RODERICK T. KENNEDY, Chief Judge**

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8 **JAMES J. WECHSLER, Judge**