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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. 34,118

5 **JERRY LOPEZ,**

6 Defendant-Appellant.

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

8 **Ross C. Sanchez, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Jorge A. Alvarado, Chief Public Defender

13 Sergio Viscoli, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **BUSTAMANTE, Judge.**

1 {1} Defendant Jerry Lopez appeals from the district court's affirmance of the
2 metropolitan court's convictions for driving while under the influence of intoxicating
3 liquor (DWI) (impaired to the slightest degree) and failure to maintain lane. [DS 1, 8;
4 RP 1– 2, 74] In this Court's notice of proposed disposition, we proposed to affirm
5 Defendant's convictions and adopt the memorandum opinion of the district court. [CN
6 1, 2] Defendant filed a memorandum in opposition. We have given due consideration
7 to the memorandum in opposition, and, remaining unpersuaded, we affirm
8 Defendant's convictions.

9 {2} As a prefatory matter, we note that a party responding to a proposed disposition
10 of this Court must point out specific errors in fact or law. *See Hennessy v. Duryea*,
11 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly
12 held that, in summary calendar cases, the burden is on the party opposing the proposed
13 disposition to clearly point out errors in fact or law.”). Defendant continues to assert
14 the same facts and arguments that he made in his docketing statement [DS 1, 8] and,
15 the memorandum in opposition is nearly identical to the statement of the issues he
16 filed with the district court in his on-record appeal. [RP 41–51] We suggest that
17 repetition of facts known to this Court is not an efficient use of counsel's or this
18 Court's time, and is of little use in assessing whether this Court should proceed with
19 its proposed summary disposition.

1 {3} In this Court’s notice of proposed disposition, we proposed to adopt the district
2 court’s thorough and well-reasoned memorandum opinion in response to Defendant’s
3 arguments. [CN 2; *see also* RP 77–89] Counsel has not pointed out whether any of the
4 facts asserted are contrary to those relied on by this Court in our notice of proposed
5 disposition. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d
6 1003 (stating that a party responding to a summary calendar notice must come forward
7 and specifically point out errors of law and fact, and the repetition of earlier arguments
8 does not fulfill this requirement), *superseded by statute on other grounds as stated in*
9 *State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. Defendant has failed to raise any
10 new arguments or issues to convince us to reconsider our proposed adoption of the
11 district court’s memorandum opinion. As such, all of the arguments in Defendant’s
12 memorandum in opposition have been addressed by this Court in its notice of
13 proposed disposition and/or the district court’s memorandum opinion this Court
14 proposed to adopt in our notice of proposed disposition, and we refer Defendant to the
15 responses therein. [*See* RP 77–89]

16 {4} Accordingly, for the reasons set forth in our notice of proposed disposition and
17 herein, and for the reasons articulated in the memorandum opinion of the district
18 court, we affirm Defendant’s convictions.

19 {5} **IT IS SO ORDERED.**

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MICHAEL D. BUSTAMANTE, Judge

3 **WE CONCUR:**

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5 **MICHAEL E. VIGIL, Chief Judge**

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7 **TIMOTHY L. GARCIA, Judge**