

1 {1} Defendant Willie Mata appeals his convictions for trafficking
2 methamphetamine (possession with intent to distribute) and possession of cocaine,
3 following a conditional no contest plea, in which he reserved his right to appeal the
4 district court's denial of his motion to suppress evidence. We issued a calendar notice
5 proposing to affirm. Defendant filed a memorandum in opposition, which we have
6 duly considered. We remain unpersuaded by Defendant's arguments and therefore
7 affirm.

8 {2} In his docketing statement, Defendant argued that he was illegally seized when
9 an officer approached him on a street corner, asked him questions for a field interview
10 card, and asked for his identification card. [DS 2-4] Based on the information
11 obtained, the officer determined that Defendant had an outstanding arrest warrant;
12 Defendant was arrested; and during a search incident to arrest, the officer found bags
13 containing methamphetamine and cocaine. [DS 3; RP 17]

14 {3} In our calendar notice, we set forth our understanding of the facts and we
15 proposed to agree with the district court's determination that the officer's and
16 Defendant's initial encounter was consensual, Defendant was not seized until he was
17 arrested on the outstanding arrest warrant, and the methamphetamine and cocaine
18 were discovered after Defendant was arrested. [CN 2-4] In relevant part, we noted that
19 a single officer approached Defendant on foot in broad daylight in a public area on the

1 corner of two streets; the officer asked Defendant if he would be willing to speak with
2 the officer; Defendant stated “I don’t mind Sir, what’s up[;]” the officer informed
3 Defendant that he wanted to collect information for a field interview card, explained
4 what a field interview is, and asked Defendant if he would be willing to provide the
5 officer with identification; Defendant responded by saying “Yeah” and handed the
6 officer a New Mexico identification card. [CN 3, 6]

7 {4} Defendant’s memorandum in opposition fails to point out any errors in our
8 understanding of the facts or our application of law. [*See generally* MIO] *See*
9 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
10 courts have repeatedly held that, in summary calendar cases, the burden is on the party
11 opposing the proposed disposition to clearly point out errors in fact or law.”).
12 Nevertheless, Defendant continues to assert that he was illegally seized when the
13 officer “*ordered* him to provide identification to check for outstanding warrants”
14 without reasonable suspicion. [MIO 1 (emphasis added)] He “submits that it is
15 reasonable for this Court to interpret [the officer’s] request for identification as an
16 order, not a friendly request.” [MIO 7] Additionally, Defendant claims that “he was
17 at the mercy of [the officer] who held his personal identification in his hands and was
18 not free to leave.” [MIO 7] To the extent that Defendant is asking this Court to
19 reweigh the evidence, we will not do so. As an appellate court, we “must defer to the

1 district court with respect to findings of historical fact so long as they are supported
2 by substantial evidence.” *State v. Jason L.*, 2000-NMSC-018, ¶ 10, 129 N.M. 119, 2
3 P.3d 856.

4 {5} For the same reasons detailed in this opinion and in our notice, we hold there
5 was substantial evidence to support the district court’s determination that the officer’s
6 and Defendant’s initial encounter was consensual. *See State v. Walters*, 1997-NMCA-
7 013, ¶ 18, 123 N.M. 88, 934 P.2d 282 (“Both our courts and the federal courts have
8 held that a police officer may approach an individual, ask questions, and request
9 identification without the encounter becoming a seizure under the Fourth
10 Amendment.”).

11 {6} Based on the foregoing discussion, as well as the reasoning set forth in our
12 previous notice, we affirm.

13 {7} **IT IS SO ORDERED.**

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MICHAEL D. BUSTAMANTE, Judge

16 **WE CONCUR:**

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JAMES J. WECHSLER, Judge

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2 **M. MONICA ZAMORA, Judge**