

1 **WECHSLER, Judge.**

2 {1} On appeal, Defendant has challenged the denial of a motion to suppress. We
3 previously issued a notice of proposed summary disposition in which we proposed to
4 affirm. Defendant has filed a memorandum in opposition. After due consideration, we
5 remain unpersuaded. We therefore affirm.

6 {2} Because the pertinent background information and applicable principles were
7 previously set out at some length in the notice of proposed summary disposition, we
8 will avoid unnecessary repetition here, and instead focus on the content of the
9 memorandum in opposition.

10 {3} Defendant does not take issue with our analysis relative to the validity of the
11 traffic stop that preceded Defendant's arrest. *See State v. Peterson*, 2014-NMCA-008,
12 ¶ 5, 315 P.3d 354 (observing that a traffic stop in order to execute a previously-issued
13 warrant for an occupant's arrest is constitutionally reasonable); *State v. Skippings*,
14 2014-NMCA-117, ¶¶ 10-12, 338 P.3d 128 (upholding a traffic stop based upon
15 information supplied by a confidential informant, upon a similar showing of
16 credibility and veracity). However, Defendant continues to assert that the search of
17 her purse was impermissible. [MIO 1-2]

18 {4} We previously expressed concern that this argument had not been raised below.
19 In her memorandum in opposition, Defendant does not address our concern, other than

1 to state that “[t]he issue was specifically rejected under Sec. VI Points and
2 Authorities.” [MIO 1] This statement appears to reference the “Points and
3 Authorities” portion of Defendant’s docketing statement, [DS 3-4] which contains
4 nothing that bears directly upon either the validity of the search of the purse or the
5 preservation of that argument below. Under the circumstances, the argument may
6 properly be rejected for want of preservation. *See* Rule 12-216 NMRA (stating that
7 appellate issues must be preserved); *and see, e.g., State v. Mosley*, 2014-NMCA-094,
8 ¶¶ 13-17, 335 P.3d 244 (observing that this Court will not reverse on grounds that the
9 trial court was neither asked to consider nor had the opportunity to review, and
10 declining to consider an unpreserved suppression argument on that basis).

11 {5} Even if the argument had been preserved, we remain of the opinion that the
12 search of Defendant’s purse was permissible in light of her arrest. *See generally State*
13 *v. Boswell*, 1991-NMSC-004, 111 N.M. 240, 804 P.2d 1059 (discussing searches
14 incident to arrest and inventory searches). Although we understand Defendant to
15 contend that the location of the purse took it outside the permissible scope of the
16 search incident to arrest and inventory search doctrines, [MIO 2] insofar as the center
17 console was accessible to Defendant, the search was authorized. *See generally State*
18 *v. Saiz*, 2008-NMSC-048, ¶ 17, 144 N.M. 663, 191 P.3d 521 (observing that the well-
19 recognized exception to the warrant requirement for searches and seizures incident

1 to a custodial arrest permits “the search of an arrestee’s person *and any other area*
2 *within the arrestee’s access*” (emphasis added)), *abrogated on other grounds by State*
3 *v. Belanger*, 2009-NMSC-025, ¶ 36 n.1, 146 N.M. 357, 210 P.3d 783; *State v. Capps*,
4 1982-NMSC-009, ¶ 8, 97 N.M. 453, 641 P.2d 484 (observing that as a matter of
5 federal constitutional law, “when a policeman had made a lawful custodial arrest of
6 the occupant of an automobile, he may, as a contemporaneous incident of that arrest,
7 search the passenger compartment of that automobile” and “the police may also
8 examine the contents of any containers found within the passenger compartment, for
9 if the passenger compartment is within the reach of the arrestee, so also will containers
10 in it be within his reach” (internal quotation marks and citation omitted)).

11 {6} Accordingly, for the foregoing reasons, as well as the reasons set forth in the
12 notice of proposed summary disposition, we affirm.

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

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JAMES J. WECHSLER, Judge

16 **WE CONCUR:**

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JONATHAN B. SUTIN, Judge

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LINDA M. VANZI, Judge