

1 **WECHSLER, Judge.**

2 {1} Defendant appeals from the denial of his motion to withdraw his plea agreement
3 and resulting judgment and sentence convicting him of escape from jail, pursuant to
4 NMSA 1978, Section 30-22-8 (1963), and possession of methamphetamine, pursuant
5 to NMSA 1978, Section 30-31-23(E) (2011). [RP 85, 92, 73-77¹] We issued a notice
6 of proposed summary disposition, proposing to affirm. In response to our notice,
7 Defendant has filed a memorandum in opposition. Having considered Defendant’s
8 arguments, we remain unpersuaded, and therefore affirm the district court.

9 {2} Defendant continues to argue, pursuant to *State v. Franklin*, 1967-NMSC-151,
10 78 N.M. 127, 428 P.2d 982, and its progeny, that he should have been allowed to
11 withdraw his plea. [DS 4; MIO 2-3] *See generally State v. Carlos*, 2006-NMCA-141,
12 ¶ 9, 140 N.M. 688, 147 P.3d 897 (“A motion to withdraw a guilty plea is addressed
13 to the sound discretion of the trial court, and we review the trial court’s denial of such
14 a motion only for abuse of discretion.” (internal quotation marks and citation
15 omitted)). As the basis for his argument, Defendant maintains that his plea was not
16 knowing and voluntary for various reasons that were set forth in our proposed
17 disposition. [DS 3-5; MIO 1-2; CN 2-3] *See State v. Hunter*, 2006-NMSC-043, ¶ 12,

18 ¹ There are two separate records with different district court numbers in this
19 case; citations are to D-608-CR-2014-00097.

1 140 N.M. 406, 143 P.3d 168.(“A trial court abuses its discretion when it denies a
2 motion to withdraw a plea that was not knowing or voluntary.”). Our notice of
3 proposed summary disposition fully addressed Defendant’s arguments relative to this
4 issue, and Defendant’s memorandum in opposition fails to respond to this Court’s
5 analysis of Defendant’s issue. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107
6 N.M. 421, 759 P.2d 1003 (stating that “[a] party responding to a summary calendar
7 notice must come forward and specifically point out errors of law and fact,” and the
8 repetition of earlier arguments does not fulfill this requirement), *superseded by statute*
9 *on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374.
10 Accordingly, for the reasons stated in this Court’s proposed summary disposition, we
11 conclude that the district court did not abuse its discretion in denying Defendant’s
12 motion to withdraw his plea. We therefore affirm.

13 {3} **IT IS SO ORDERED.**

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JAMES J. WECHSLER, Judge

16 **WE CONCUR:**

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MICHAEL D. BUSTAMANTE, Judge

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2 **JONATHAN B. SUTIN, Judge**