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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. 34,317

5 **ROCCO TINOCO,**

6 Defendant-Appellant.

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

8 **Jennifer E. DeLaney, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Rocco Tinoco

13 Deming, NM

14 Pro Se Appellant

15 **MEMORANDUM OPINION**

16 **WECHSLER, Judge.**

1 {1} Defendant, in a self-represented capacity, appeals from the district court's order
2 dismissing his appeal from his magistrate court guilty plea convictions for resisting,
3 evading, or obstructing an officer and battery upon a household member. [RP 38, 76]
4 This Court issued a notice proposing to affirm the district court's dismissal of
5 Defendant's appeal on the grounds that Defendant's unconditional guilty plea waived
6 his right to appeal. Defendant has filed a memorandum in opposition, which we have
7 duly considered. Unpersuaded, we affirm.

8 {2} In this Court's notice, we noted that "a voluntary guilty plea ordinarily
9 constitutes a waiver of the defendant's right to appeal his conviction on other than
10 jurisdictional grounds." *State v. Chavarria*, 2009-NMSC-020, ¶ 9, 146 N.M. 251, 208
11 P.3d 896 (internal quotation marks and citations omitted). [CN 2] In his response,
12 Defendant makes numerous factual assertions that appear to challenge the sufficiency
13 of the evidence [MIO 1–5], but he does not assert any fact or law that indicates his
14 guilty plea was conditional and did not waive his right to appeal. Defendant asserts
15 that his conviction must be reversed on jurisdictional grounds [MIO 1], but he does
16 not support this assertion with either law or fact demonstrating a jurisdictional defect.
17 We therefore conclude that Defendant has failed to point out any actual errors in fact
18 or in law with this Court's notice. *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24,
19 124 N.M. 754, 955 P.2d 683 ("Our courts have repeatedly held that, in summary

1 calendar cases, the burden is on the party opposing the proposed disposition to clearly
2 point out errors in fact or law.”).

3 {3} For the reasons stated above and in this Court’s notice of proposed disposition,
4 we affirm Defendant’s conviction.

5 {4} **IT IS SO ORDERED.**

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7

JAMES J. WECHSLER, Judge

8 **WE CONCUR:**

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JONATHAN B. SUTIN, Judge

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CYNTHIA A. FRY, Judge