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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. 34,406

5 **MIGUEL BACA,**

6 Defendant-Appellant.

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

8 **Stanley J. Whitaker, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Jorge A. Alvarado, Chief Public Defender

13 Santa Fe, NM

14 Steven J. Forsberg, Assistant Appellate Defender

15 Albuquerque, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **GARCIA, Judge.**

19 {1} Defendant appeals his conviction for DWI (refusal, first offense), pursuant to

1 a conditional guilty plea [RP 34, 35, 60], entered by the metropolitan court [RP 36]
2 and subsequently affirmed by the district court following an on-record review. Our
3 notice proposed to affirm, and Defendant filed a memorandum in opposition which
4 we accept as timely filed. [MIO 1] We remain unpersuaded by Defendant’s arguments
5 and thus affirm.

6 {2} Defendant continues to argue that the district court erred in denying his motion
7 to suppress Officer Miller’s testimony on the basis that the State lost the lapel video
8 from the traffic stop. [DS 2; MIO 1] *See State v. Duarte*, 2007-NMCA-012, ¶ 3, 140
9 N.M. 930, 149 P.3d 1027 (providing that we review a district court’s denial of a
10 motion to suppress or dismiss the charges for lost evidence under an abuse of
11 discretion standard). For reasons detailed in our notice, and in applying the standard
12 for lost evidence established in *State v. Chouinard*, 1981-NMSC-096, ¶ 16, 96 N.M.
13 658, 634 P.2d 680, we conclude that there is no basis for reversal. In doing so, we
14 decline Defendant’s invitation to re-examine the *Chouinard* holding. [MIO 1] *See*
15 *State v. Wilson*, 1994-NMSC-009, ¶ 6, 116 N.M. 793, 867 P.2d 1175 (“The Court of
16 Appeals . . . remains bound by Supreme Court precedent [.]”).

17 {3} For the reasons above and detailed in our notice, we affirm.

18 {4} **IT IS SO ORDERED.**

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TIMOTHY L. GARCIA, Judge

3 **WE CONCUR:**

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5 **JONATHAN B. SUTIN, Judge**

6

7 **J. MILES HANISEE, Judge**