

1 has filed a memorandum in opposition. After due consideration, we remain
2 unpersuaded. We therefore affirm.

3 {2} The pertinent background information was previously set forth in the notice of
4 proposed summary disposition. We will avoid undue repetition here, and focus instead
5 on the content of the memorandum in opposition.

6 {3} Defendant continues to argue that he should have been allowed to withdraw his
7 plea. [MIO 4-7] He advances two sub-arguments. First, Defendant argues that the trial
8 court's failure to advise him about the sentence range renders the plea unknowing
9 and/or involuntary. [MIO 4-6] The rule applicable to plea proceedings in magistrate
10 court merely requires advisement as to any mandatory minimum and the maximum
11 possible penalty. *See* Rule 6-502(B) NMRA. This was satisfied. As we previously
12 observed, at the time of sentencing no mandatory minimum applied. Defendant was
13 advised of the number of days left on his probationary term; this correlates with the
14 maximum extent of the magistrate court's authority. *See* NMSA 1978, § 31-20-5(A)
15 (2003); *State v. Nieto*, 2013-NMCA-065, ¶ 5, 303 P.3d 855 (discussing the
16 sentencing authority of the magistrate courts, relative to probation violations).
17 Defendant does not contend otherwise. [MIO 6] Accordingly, Defendant was duly
18 advised of the applicable parameters.

1 {4} We understand Defendant to suggest that he should have been “advised of all
2 the possible penalties,” [MIO 1] in reliance upon *State v. Gallegos*, 2007-NMCA-112,
3 142 N.M. 447, 166 P.3d 1101. However, the “range” discussed in *Gallegos* was
4 simply the realm between the mandatory minimum and the statutory maximum, within
5 which the trial court was at liberty to exercise its discretion. *See id.* ¶¶ 14-15. Nothing
6 in *Gallegos*, or any other authority of which we are aware, would require a more
7 complete description of all potential sentencing outcomes. We therefore reject
8 Defendant’s first assertion of error.

9 {5} Second, Defendant renews his argument that the admission should be deemed
10 unknowing or involuntary based on the trial court’s failure to ensure that he was
11 represented by counsel. [MIO 6-7] As we previously noted, insofar as this was a
12 simple case in which Defendant did not dispute commission of the violation, did not
13 offer justification or mitigation, and did not otherwise suggest complex or difficult
14 issues, it is not at all clear that Defendant was entitled to representation. *See State v.*
15 *Leon*, 2013-NMCA-011, ¶¶ 11-12, 292 P.3d 493 (identifying relevant considerations
16 in this context). Defendant’s apparent dissatisfaction with his sentence [MIO 6] does
17 not convince us otherwise.

18 {6} Even if we were to assume that Defendant was entitled to counsel, he
19 undisputedly waived that right when he entered the plea. [DS 3; RP 30]

1 Notwithstanding that waiver, Defendant continues to assert that he was entitled to
2 counsel at sentencing, based on his alleged request for representation at that juncture.
3 [MIO 6-7] However, as we previously observed, conflicting evidence was presented
4 on this matter. [RP 108, 111] The district court was at liberty to resolve that conflict
5 in the State’s favor, and to conclude as it did that Defendant failed to alert the trial
6 court of his desire for representation prior to or during the sentencing hearing. [RP
7 113, 116] *See State v. Anaya*, 2012-NMCA-094, ¶ 33, 287 P.3d 956 (upholding a
8 determination by the district court that the defendant did not make a request, and
9 relatedly observing that where “testimony provides substantial evidence to support the
10 district court’s finding . . . we will not disturb it on appeal”). We therefore reject
11 Defendant’s argument.

12 {7} Accordingly, for the reasons stated above and in the notice of proposed
13 summary disposition, we affirm.

14 {8} **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

17 **WE CONCUR:**

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19 **MICHAEL D. BUSTAMANTE, Judge**

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2 **TIMOTHY L. GARCIA, Judge**