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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. 34,700**

5       **JASON REYES,**

6             Defendant-Appellant.

7       **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

8       **Fernando R. Macias, District Judge**

9       Hector H. Balderas, Attorney General

10       Santa Fe, NM

11       for Appellee

12       Jorge A. Alvarado, Chief Public Defender

13       Kathleen T. Baldrige, Assistant Appellate Defender

14       Santa Fe, NM

15       for Appellant

16                                       **MEMORANDUM OPINION**

17       **ZAMORA, Judge.**

18       {1}     Defendant appeals from a judgment and sentence rendered pursuant to a guilty

19       plea. We previously issued a notice of proposed summary disposition in which we

1 proposed to dismiss. Defendant has filed a memorandum in opposition. After due  
2 consideration, we remain unpersuaded that this matter is properly before us. We  
3 therefore dismiss.

4 {2} As we previously observed, a guilty plea generally operates as a waiver of the  
5 right to appeal the resultant conviction(s) and sentence. *State v. Chavarria*, 2009-  
6 NMSC-020, ¶ 16, 146 N.M. 251, 208 P.3d 896 (“[T]he constitutional right to appeal  
7 is waivable, and a defendant who knowingly, intelligently, and voluntarily pleads  
8 guilty, waives the right to appeal his conviction and sentence.”). In his memorandum  
9 in opposition Defendant acknowledges this principle. [MIO 3] Nevertheless, he  
10 maintains that the sentence is “unjust and unwarranted,” [MIO 3] and he suggests that  
11 counsel’s failure to file a sentencing memorandum may have contributed to this  
12 outcome. [MIO 4] Insofar as these arguments are not jurisdictional, [MIO 3] we  
13 remain unpersuaded that they are properly before us. *See id.* ¶¶ 9-10, 18 (observing  
14 that appellate review of a sentence is limited to jurisdictional errors where a defendant  
15 does not challenge the validity of a plea agreement, and ultimately dismissing an  
16 appeal under analogous circumstances); *State v. Herrera*, 2001-NMCA-073, ¶ 37, 131  
17 N.M. 22, 33 P.3d 22 (expressing a preference to habeas corpus proceedings over

1 remand when the record on appeal does not establish a prima facie case of ineffective  
2 assistance of counsel).

3 {3} Accordingly, for the reasons stated above and in the notice of proposed  
4 summary disposition, we dismiss.

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

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M. MONICA ZAMORA, Judge

8 **WE CONCUR:**

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JAMES J. WECHSLER, Judge

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CYNTHIA A. FRY, Judge