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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. 35,440

5 **JORGE MORALES,**

6 Defendant-Appellant.

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

8 **Lisa B. Riley, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Kathleen T. Baldridge, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **WECHSLER, Judge.**

1 {1} Defendant challenges the sufficiency of the evidence to support his conviction
2 of possession of methamphetamine with intent to distribute. [MIO 1] This Court’s
3 notice of proposed summary disposition proposed to hold that the evidence offered
4 at trial was sufficient to support the verdict rendered. [CN 3] Defendant has filed a
5 memorandum in opposition to that disposition, which we have duly considered.
6 Unpersuaded, we now affirm.

7 {2} In order to obtain a conviction, the State was required to establish at trial that
8 Defendant possessed methamphetamine, knowing or believing that it was
9 methamphetamine, and intending to transfer possession of that methamphetamine to
10 someone else. [RP 119] At Defendant’s trial, testimony was offered that thirty-three
11 small baggies found in Defendant’s motel room contained methamphetamine. [DS 5]
12 During a subsequent interview with agents of the Pecos Valley Drug Task Force,
13 Defendant “told them that the methamphetamine was his, explained where he obtained
14 the drugs, how much he paid for the drugs and what he expected to earn from his sale
15 of the drugs.” [MIO 2] As suggested in our notice of proposed summary disposition,
16 the above-described evidence would generally be sufficient to lead a reasonable
17 person to believe that Defendant knowingly possessed methamphetamine, intending
18 to transfer that methamphetamine to someone else. [CN 3]

1 {3} When an appeal is assigned to the summary calendar, “the burden is on the
2 party opposing the proposed disposition to clearly point out errors in fact or law.”
3 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683.
4 Defendant’s memorandum in opposition maintains that the evidence was insufficient,
5 but it does not point out any factual or legal error in the notice of proposed
6 disposition. Consequently, and for the reasons addressed in the notice of proposed
7 disposition, we affirm the judgment and sentence of the district court.

8 {4} **IT IS SO ORDERED.**

9
10 _____
JAMES J. WECHSLER, Judge

11 **WE CONCUR:**

12 _____
13 **LINDA M. VANZI, Chief Judge**

14 _____
15 **STEPHEN G. FRENCH, Judge**