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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellant,

4 v.

No. A-1-CA-35111

5 **WILLIAM DANIEL MARTINEZ,**

6 Defendant-Appellee.

7 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8 **Karen L. Townsend, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 John J. Woykovsky, Assistant Attorney General

12 Albuquerque, NM

13 for Appellant

14 Bennett J. Baur, Chief Public Defender

15 Mary Barket, Assistant Appellate Defender

16 Santa Fe, NM

17 for Appellee

18 **MEMORANDUM OPINION**

19 **FRENCH, Judge.**

1 {1} The State of New Mexico (Plaintiff) appeals the district court's orders granting
2 Defendant William Daniel Martinez's motion to dismiss and dismissal of charge
3 without prejudice. Defendant was charged with a single count of aggravated fleeing
4 a law enforcement officer pursuant to NMSA 1978, Section 30-22-1.1 (2003). The
5 sole issue before the district court was whether the deputy's vehicle was an
6 "appropriately marked law enforcement vehicle" pursuant to Section 30-22-1.1(A).
7 The district court found (1) that the law enforcement vehicle "was equipped with red
8 and blue LED lights located within the grill area that were visible through the grill
9 even when not activated[,] (2) that the vehicle "had a siren, the speakers of which
10 were also located within the grill area[,] (3) "[t]he vehicle had an antenna that is not
11 common to civilian vehicles[,] and (4) the deputy "activated his red and blue flashing
12 lights and his siren" resulting in Defendant eluding the deputy. Importantly, the
13 district court also found that the law enforcement vehicle "bore no insignias, stripes,
14 decals, labels, seals, symbols or other pictorial signs or lettering indicating its identity
15 as a law enforcement vehicle." In concluding that the deputy's vehicle was not
16 "appropriately marked" pursuant to Section 30-22-1.1(A), the district court ruled that
17 to be marked, "requires at a minimum some type of readily observable insignia or
18 lettering that conveys the identity or ownership of the vehicle."

1 {2} This case raises the same issue, appropriately marked law enforcement vehicle,
2 pursuant to Section 30-22-1.1(A), as the one this Court recently decided in *State v.*
3 *Montano*, ___-NMCA-___, ¶¶ 1, 35-47, ___P.3d___(No. A-1-CA-35275, March 29,
4 2018). For the same reasons as those discussed in *Montano*, we reverse.

5 {3} **IT IS SO ORDERED.**

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7

STEPHEN G. FRENCH, Judge

8 **WE CONCUR:**

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LINDA M. VANZI, Chief Judge

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HENRY M. BOHNHOFF, Judge