

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

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

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

NO. A-1-CA-35526

5 **FELIX ROMERO,**

6 Defendant-Appellant.

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

8 **George P. Eichwald, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 Laurie Blevins, Assistant Attorney General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 William O’Connell, Assistant Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **MEMORANDUM OPINION**

19 **VANZI, Chief Judge.**

1 {1} Defendant appeals the judgment and sentence convicting him of multiple counts
2 of possession of child pornography, in violation of NMSA 1978, Section 30-6A-3(A)
3 (2007, amended 2016). Defendant contends that under the dictates of *State v. Olsson*,
4 2014-NMSC-012, 324 P.3d 1230, he should only have been convicted of one count.
5 The State agrees with Defendant's argument. While we are not bound by the State's
6 concession, *see State v. Guerra*, 2012-NMSC-027, ¶ 9, 284 P.3d 1076, we have
7 examined the facts and circumstances of this case and find that Defendant's argument
8 and the State's concession are correct statements of the law as applied to this case.
9 We therefore hold that Defendant should have been convicted of only one count of
10 possession of child pornography. We reverse and remand for vacation of all but one
11 of Defendant's convictions and for further proceedings as may be appropriate.

12 {2} **IT IS SO ORDERED.**

13
14

LINDA M. VANZI, Chief Judge

15 **WE CONCUR:**

16
17

MICHAEL E. VIGIL, Judge

18
19

JULIE J. VARGAS, Judge