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

2       **CITY OF ROSWELL,**

3             Plaintiff-Appellee,

4       v.

**NO. A-1-CA-36179**

5       **CHARLES NORIEGA,**

6             Defendant-Appellant.

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

8       **James M. Hudson, District Judge**

9       Paul V. Sanchez

10       El Prado, NM

11       for Appellee

12       Charles Noriega

13       Roswell, NM

14       Pro Se Appellant

15                                       **MEMORANDUM OPINION**

16       **VANZI, Chief Judge.**

17       {1}     Defendant Charles Noriega appeals in a self-represented capacity from the  
18       district court's judgment and sentence and order of remand following Defendant's de

1 novo appeal from municipal court to district court. On appeal, Defendant contends  
2 that the municipal court and district court erred in not providing Defendant counsel  
3 and the courts exercised judicial bias against him. This Court issued a notice of  
4 proposed disposition addressing these issues and proposing to affirm. Defendant has  
5 filed an informal memorandum in opposition, which we have duly considered.  
6 Unpersuaded, we affirm.

7 {2} In this Court’s notice of proposed disposition, we noted that in order for error  
8 to be reversible that error must be prejudicial. *See State v. Fernandez*, 1994-NMCA-  
9 056, ¶ 13, 117 N.M. 673, 875 P.2d 1104 (“In the absence of prejudice, there is no  
10 reversible error.”). We further noted that Defendant did not appear to have met his  
11 burden of demonstrating prejudice on appeal. [CN 3] In his memorandum in  
12 opposition, Defendant does not inform this Court how not having counsel during the  
13 initial hearings, where the only charge that carried the possibility of imprisonment was  
14 dismissed prior to trial, prejudiced him. As a result, we conclude Defendant has not  
15 demonstrated error.

16 {3} Moreover, on the issue of judicial bias, Defendant provides no argument to  
17 counter this Court’s notice of proposed disposition, relying solely on conclusory  
18 statements. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d  
19 1003 (stating that “[a] party responding to a summary calendar notice must come  
20 forward and specifically point out errors of law and fact,” and the repetition of earlier

1 arguments does not fulfill this requirement), *superseded by statute on other grounds*  
2 *as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *Hennessey v. Duryea*,  
3 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly  
4 held that, in summary calendar cases, the burden is on the party opposing the proposed  
5 disposition to clearly point out errors in fact or law.”). As a result, we conclude that  
6 Defendant has not met his burden on appeal.

7 {4} Accordingly, we affirm.

8 {5} **IT IS SO ORDERED.**

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**LINDA M. VANZI, Chief Judge**

11 **WE CONCUR:**

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**JULIE J. VARGAS, Judge**

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**EMIL J. KIEHNE, Judge**