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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. A-1-CA-36262

5 **ANTHONY BACA,**

6 Defendant-Appellant.

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

8 **Fred T. Van Soelen, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Caitlin C.M. Smith, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **HANISEE, Judge.**

18 {1} Defendant Anthony Baca appeals from his conviction of aggravated assault.

19 This Court issued a notice of proposed disposition, proposing to summarily affirm,

1 and a second notice of proposed disposition, proposing to summarily affirm, in part,
2 and reverse, in part. Defendant filed a memorandum in support of summary reversal
3 and opposition to summary affirmance (DMIO), stating that he “relies upon the facts
4 and arguments contained in his initial memorandum in opposition to proposed
5 summary affirmance,” and supports our proposed reversal in part. [DMIO 1] The State
6 also filed a response to our proposed disposition (SMIO), by which it “informs the
7 Court that after due consideration it will not be filing a memorandum in opposition.”
8 [SMIO 1] Accordingly, and for the reasons stated in our notice of proposed
9 disposition, as remain applicable, and our second notice of proposed disposition, we
10 affirm Defendant’s conviction of aggravated assault, but reverse the district court’s
11 designation of the conviction as a serious violent offense.

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

13
14

J. MILES HANISEE, Judge

15 **WE CONCUR:**

16
17

JULIE J. VARGAS, Judge

18

1 **DANIEL J. GALLEGOS, Judge**