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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

NO. A-1-CA-36541

ROBERT E. JOHNSON,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY

Fernando R. Macias, District Judge

Hector H. Balderas, Attorney General

Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Steven J. Forsberg, Assistant Public Defender

Albuquerque, NM

for Appellant

MEMORANDUM OPINION

VANZI, Chief Judge.

{1} Defendant Robert E. Johnson appeals his convictions for two counts of
possession of a controlled substance and one count of possession of marijuana, all

1 contrary to NMSA 1978, Section 30-31-23(A) (2011), [RP 89-92] pursuant to a
2 conditional plea [RP 81-87] that reserved the right to appeal the denial of his motion
3 to suppress [RP 82]. In response to Defendant's docketing statement, we proposed to
4 affirm. Defendant has filed a memorandum in opposition (MIO). After due
5 consideration, we are unpersuaded and therefore affirm.

6 {2} Defendant has not persuaded us in his MIO that there was an error of law or fact
7 in our proposed disposition. Accordingly, for the reasons stated in our notice of
8 proposed summary disposition and above, we affirm. *See Farmers, Inc. v. Dal Mach.*
9 *& Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063 (stating that
10 our appellate courts presume that the trial court is correct and, accordingly, the burden
11 is on the appellant to clearly demonstrate that the trial court erred); *Hennessy v.*
12 *Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“[I]n summary
13 calendar cases, the burden is on the party opposing the proposed disposition to clearly
14 point out errors in fact or law.”).

15 {3} **IT IS SO ORDERED.**

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LINDA M. VANZI, Chief Judge

18 **WE CONCUR:**

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J. MILES HANISEE, Judge

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2 **JULIE J. VARGAS, Judge**