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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-37006

5 **SAUL D. LICON,**

6 Defendant-Appellant.

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

8 **Gary L. Clingman, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Templeman and Crutchfield

13 Barry Crutchfield

14 Lovington, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **HANISEE, Judge.**

18 {1} Saul Licon (Defendant) appeals from denial of his motion to reconsider

19 sentence on double jeopardy grounds, following entry of an unconditional guilty plea

20 and a judgment and sentence convicting him of three counts of aggravated assault with

1 a deadly weapon upon a peace officer, two counts of battery upon a peace officer, and
2 driving with a revoked license. [RP 78, 95, 99, 104] We issued a notice proposing to
3 affirm. [CN 1, 4] Defendant filed a memorandum in opposition, which we have duly
4 considered. Remaining unpersuaded, we affirm.

5 {2} Defendant continues to argue his conduct constituted only one offense because
6 the events occurred within seconds of each other, there were no intervening acts, each
7 of the acts constituted swerving at or from police cars, each act involved the same
8 intent by Defendant, and the three officers who were the victims were engaged in a
9 combined effort to stop Defendant. [MIO 2-3] As set forth in our notice to Defendant,
10 under *State v. Olsson*, 2014-NMSC-012, 324 P.3d 1230 and *State v. Bernal*, 2006-
11 NMSC-050, 140 N.M. 644, 146 P.3d 289, we conclude Defendant's actions in
12 sequentially swerving his vehicle toward each of the three officers—each of whom
13 drove their own separate police vehicle—to be sufficiently distinct for double
14 jeopardy purposes. We find Defendant's argument his acts constituted a single offense
15 unavailing. Therefore, we hold the district court did not err in denying Defendant's
16 motion to reconsider his sentence on double jeopardy grounds. We further conclude
17 Defendant's argument also does not provide a basis for vacating his multiple
18 convictions on double jeopardy grounds.

19 {3} Accordingly, we affirm.

1 {4} **IT IS SO ORDERED.**

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J. MILES HANISEE, Judge

4 **WE CONCUR:**

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6 _____
M. MONICA ZAMORA, Judge

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JULIE J. VARGAS, Judge