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

7 **STATE OF NEW MEXICO,**

8 Plaintiff-Appellee,

9 v.

NO. 30784

10 **TIMOTHY J. MESCAL,**

11 Defendant-Appellant.

12 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

13 **Thomas J. Hynes, District Judge**

14 Gary K. King, Attorney General

15 Santa Fe, NM

16 Jacqueline R. Medina, Assistant Attorney General

17 Albuquerque, NM

18 for Appellee

19 Hugh W. Dangler, Chief Public Defender

20 Santa Fe, NM

21 Mark A. Curnutt, Assistant Public Defender

22 Albuquerque, NM

23 for Appellant

24 **MEMORANDUM OPINION**

25 **KENNEDY, Judge.**

1 Defendant appeals his conviction for driving under the influence of intoxicating
2 liquor (DUI). We issued a notice of proposed summary disposition proposing to
3 reverse on the basis that the district court erred in allowing the arresting officer to give
4 scientific evidence regarding Defendant's blood alcohol content. The State has
5 responded that it does not oppose reversal of Defendant's conviction on this basis.

6 Accordingly, we reverse Defendant's conviction. Because we reverse on this
7 basis, we do not reach the other grounds for reversal discussed in our notice of
8 proposed summary disposition.

9 **IT IS SO ORDERED.**

10 _____
11 **RODERICK T. KENNEDY, Judge**

12 **WE CONCUR:**

13 _____
14 **MICHAEL D. BUSTAMANTE, Judge**

15 _____
16 **TIMOTHY L. GARCIA, Judge**