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

7 **STATE OF NEW MEXICO,**

8 Plaintiff-Appellant,

9 v.

NO. 30,807

10 **JOSEPH ANTHONY GARCIA,**

11 Defendant-Appellee.

12 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

13 **Lisa C. Schultz, District Judge**

14 Gary K. King, Attorney General

15 Andrew S. Montgomery, Assistant Attorney General

16 Santa Fe, NM

17 for Appellant

18 Law Offices of Michael L. Stout

19 Michael L. Stout

20 Las Cruces, NM

21 for Appellee

22 **MEMORANDUM OPINION**

23 **VIGIL, Judge.**

1 The State appeals the district court order granting a new trial to Defendant. We
2 proposed to affirm in a calendar notice. In response, the State filed a “Notice of Non-
3 Intention to File Memorandum in Response to Notice of Proposed Summary

1 Disposition.” Therefore, for the reasons discussed in our calendar notice, we affirm.

2 **IT IS SO ORDERED.**

3

4

MICHAEL E. VIGIL, Judge

5 **WE CONCUR:**

6

7 **MICHAEL D. BUSTAMANTE, Judge**

8

9 **JONATHAN B. SUTIN, Judge**