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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. 31,903

5 **JONATHAN GALLEGOS,**

6 Defendant-Appellant.

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

8 **William C. Birdsall, District Judge**

9 Gary K. King, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Jacqueline L. Cooper, Chief Public Defender

13 J.K. Theodosia Johnson, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **VIGIL, Judge.**

18 Gallegos appeals an order denying his motion to withdraw his plea. In our
19 notice of proposed summary disposition, we proposed to dismiss Gallegos’s appeal,

1 since Gallegos's notice of appeal was filed late. Gallegos has filed a memorandum
2 in opposition, which we have duly considered. As we are not persuaded by his
3 arguments, we dismiss this appeal for the reasons stated in our notice of proposed
4 summary disposition. To the degree that Gallegos may have a claim of ineffective
5 assistance of counsel based on either (1) his new counsel's failure to timely file the
6 notice of appeal or (2) his prior counsel's representation of him in entering the plea,
7 our dismissal of this appeal does not prevent him from seeking to present evidence in
8 support of those arguments in a post-conviction proceeding.

9 **IT IS SO ORDERED.**

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MICHAEL E. VIGIL, Judge

12 **WE CONCUR:**

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RODERICK T. KENNEDY, Judge

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J. MILES HANISEE, Judge