

STATE V. DELGADO

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JUAN DELGADO,
Defendant-Appellant.**

NO. 35,902

COURT OF APPEALS OF NEW MEXICO

February 21, 2017

APPEAL FROM THE DISTRICT COURT OF DONA ANA COUNTY, Marci Beyer,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge,
STEPHEN G. FRENCH, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Defendant Juan Delgado (“Defendant”) appeals from his convictions for burglary, contrary to NMSA 1978, Section 30-16-3(B) (1971), a fourth degree felony; attempt to commit burglary, contrary to NMSA 1978, Section 30-28-1 (1963) and Section 30-16-

3(B), a misdemeanor; possession of burglary tools, contrary to NMSA 1978, Section 30-16-5 (1963), a fourth-degree felony; and criminal damage to property under \$1,000, contrary to NMSA 1978, Section 30-15-1 (1963), a petty misdemeanor. [DS 2] This Court issued a calendar notice reviewing the sufficiency of the evidence to support the charges and proposing to affirm. Defendant has filed a memorandum in opposition to this Court's notice of proposed disposition, which we have duly considered. Unpersuaded, we affirm.

{2} This Court detailed the facts as alleged in the docketing statement in our notice of proposed disposition and, relying on those facts, proposed to conclude that there was sufficient evidence to support each of the convictions set out above. In response, Defendant maintains that the evidence is insufficient. Defendant, however, points to no error in fact or in law with this Court's notice of proposed disposition. *See State v. Ibarra*, 1993-NMCA-040, ¶ 11, 116 N.M. 486, 864 P.2d 302 ("A party opposing summary disposition is required to come forward and specifically point out errors in fact and/or law.").

{3} Accordingly, for the reasons articulated in this Court's notice of proposed disposition, we affirm Defendant's convictions.

{4} IT IS SO ORDERED.

TIMOTHY L. GARCIA, Judge

WE CONCUR:

LINDA M. VANZI, Chief Judge

STEPHEN G. FRENCH, Judge