

STATE V. GALLEGOS

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
AGGIE GALLEGOS,
Defendant-Appellant.**

NO. 34,689

COURT OF APPEALS OF NEW MEXICO

September 29, 2015

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Angela J. Jewell,
District Judge

COUNSEL

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

Jorge A. Alvarado, Chief Public Defender, Will O'Connell, Assistant Appellate Defender,
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JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: MICHAEL E. VIGIL, Chief Judge, JAMES
J. WECHSLER, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant has appealed from the revocation of his probation. We issued a notice of proposed summary disposition in which we proposed to affirm. Defendant has filed a

memorandum in opposition. After due consideration, we remain unpersuaded. We therefore affirm.

{2} The pertinent background information was previously set forth in the notice of proposed summary disposition. We will avoid undue repetition here, and focus instead on the content of the memorandum in opposition.

{3} Defendant continues to argue that the district court abused its discretion by revoking his probation and requiring him to serve the balance of his sentence. [DS 4; MIO 3] However, in light of his violations, the district court acted well within its discretion. See NMSA 1978, § 31-21-15(B) (1989); *State v. Leon*, 2013-NMCA-011, ¶¶ 38-39, 292 P.3d 493 (holding that the probation officer's testimony that the defendant had violated the conditions of his probation by possessing alcohol was sufficient to support the revocation of his probation). Although we understand Defendant to suggest that lesser sanctions would have been appropriate, [MIO 1-3] the district court could reasonably have differed in its assessment. In the final analysis, the district court was under no obligation to continue Defendant's probation. See *State v. Mendoza* 1978-NMSC-048, ¶ 5, 91 N.M. 688, 579 P.2d 1255 ("Probation is not a right but a privilege.").

{4} Accordingly, for the reasons stated above and in the notice of proposed summary disposition, we affirm.

{5} **IT IS SO ORDERED.**

M. MONICA ZAMORA, Judge

WE CONCUR:

MICHAEL E. VIGIL, Chief Judge

JAMES J. WECHSLER, Judge