

**STATE V. GALLEGOS**

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

No. 31,903

COURT OF APPEALS OF NEW MEXICO

June 7, 2012

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, William C. Birdsall,  
District Judge

**COUNSEL**

Gary K. King, Attorney General, Santa Fe, NM, for Appellee

Jacqueline L. Cooper, Chief Public Defender, J.K. Theodosia Johnson, Assistant  
Appellate Defender, Santa Fe, NM, for Appellant

**JUDGES**

MICHAEL E. VIGIL, Judge. WE CONCUR: RODERICK T. KENNEDY, Judge, J. MILES  
HANISEE, Judge

**AUTHOR:** MICHAEL E. VIGIL

**MEMORANDUM OPINION**

**VIGIL, Judge.**

Gallegos appeals an order denying his motion to withdraw his plea. In our notice of proposed summary disposition, we proposed to dismiss Gallegos's appeal, since Gallegos's notice of appeal was filed late. Gallegos has filed a memorandum in

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

**IT IS SO ORDERED.**

**MICHAEL E. VIGIL, Judge**

**WE CONCUR:**

**RODERICK T. KENNEDY, Judge**

**J. MILES HANISEE, Judge**