

STATE V. OROZCO-LUJAN

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JOSE OROZCO-LUJAN,
Defendant-Appellant.

No. 34,338

COURT OF APPEALS OF NEW MEXICO

January 5, 2016

APPEAL FROM THE DISTRICT COURT OF LUNA COUNTY, Daniel Viramontes,
District Judge

COUNSEL

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

D. Eric Hannum, Albuquerque, NM, for Appellant

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: RODERICK T. KENNEDY, Judge, J.
MILES HANISEE, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Defendant Jose Orozco-Lujan (Defendant) appeals from the district court's denial of his motion to suppress evidence. [RP 191–92; DS 2] Following the district court's denial of Defendant's motion, Defendant entered a conditional guilty plea to distribution of marijuana or synthetic cannabinoids. [RP 196, 200–02; DS 2] In this Court's second

notice of proposed disposition, we proposed to affirm the denial of Defendant's motion to suppress and his conviction. [CN 1, 6–7] Defendant filed a memorandum in opposition, which we have given due consideration. Remaining unpersuaded, we affirm.

{2} Defendant asserts in his memorandum in opposition that his conviction must be reversed, because there was no testimony regarding whether the trained dog alerted differently to a controlled substance than to a concealed person. [MIO 2–3] Thus, Defendant argues, the fact that the dog alerted first to Defendant's vehicle, then to his seat lacks "any meaningful evidentiary value[.]" [MIO 2–3] Defendant does not explain how a lack of specificity about the type of contraband indicated by the dog affects reasonable suspicion or why further detention based on the dog sniff was unreasonable. We therefore conclude Defendant has failed to point out any actual errors in fact or in law with this Court's notice. *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 ("Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law.").

{3} Accordingly, for the reasons set forth in our notice of proposed disposition and herein, we affirm Defendant's conviction.

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

TIMOTHY L. GARCIA, Judge

WE CONCUR:

RODERICK T. KENNEDY, Judge

J. MILES HANISEE, Judge