

**STATE V. REYES**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellee,  
v.  
JASON REYES,  
Defendant-Appellant.**

NO. 34,700

COURT OF APPEALS OF NEW MEXICO

September 29, 2015

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Fernando R.  
Macias, District Judge

**COUNSEL**

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

Jorge A. Alvarado, Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

**JUDGES**

M. MONICA ZAMORA, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,  
CYNTHIA A. FRY, Judge

**AUTHOR:** M. MONICA ZAMORA

**MEMORANDUM OPINION**

**ZAMORA, Judge.**

{1} Defendant appeals from a judgment and sentence rendered pursuant to a guilty plea. We previously issued a notice of proposed summary disposition in which we proposed to dismiss. Defendant has filed a memorandum in opposition. After due

consideration, we remain unpersuaded that this matter is properly before us. We therefore dismiss.

{2} As we previously observed, a guilty plea generally operates as a waiver of the right to appeal the resultant conviction(s) and sentence. *State v. Chavarria*, 2009-NMSC-020, ¶ 16, 146 N.M. 251, 208 P.3d 896 (“[T]he constitutional right to appeal is waivable, and a defendant who knowingly, intelligently, and voluntarily pleads guilty, waives the right to appeal his conviction and sentence.”). In his memorandum in opposition Defendant acknowledges this principle. [MIO 3] Nevertheless, he maintains that the sentence is “unjust and unwarranted,” [MIO 3] and he suggests that counsel’s failure to file a sentencing memorandum may have contributed to this outcome. [MIO 4] Insofar as these arguments are not jurisdictional, [MIO 3] we remain unpersuaded that they are properly before us. See *id.* ¶¶ 9-10, 18 (observing that appellate review of a sentence is limited to jurisdictional errors where a defendant does not challenge the validity of a plea agreement, and ultimately dismissing an appeal under analogous circumstances); *State v. Herrera*, 2001-NMCA-073, ¶ 37, 131 N.M. 22, 33 P.3d 22 (expressing a preference to habeas corpus proceedings over remand when the record on appeal does not establish a prima facie case of ineffective assistance of counsel).

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

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

**M. MONICA ZAMORA, Judge**

**WE CONCUR:**

**JAMES J. WECHSLER, Judge**

**CYNTHIA A. FRY, Judge**