

**STATE V. SANCHEZ**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellee,  
v.  
LEONARD SANCHEZ,  
Defendant-Appellant.**

No. A-1-CA-36383

COURT OF APPEALS OF NEW MEXICO

October 3, 2017

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Benjamin  
Chavez, District Judge

**COUNSEL**

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

Bennett J. Baur, Chief Public Defender, Santa Fe, NM, Steven J. Forsberg, Assistant  
Appellate Defender, Albuquerque, NM, for Appellant

**JUDGES**

TIMOTHY L. GARCIA, Judge. WE CONCUR: JONATHAN B. SUTIN, Judge, M.  
MONICA ZAMORA, Judge

**AUTHOR:** TIMOTHY L. GARCIA

**MEMORANDUM OPINION**

**GARCIA, Judge.**

{1} Defendant appeals from the district court's affirmance of his convictions after a bench trial in metropolitan court for driving while under the influence of intoxicating liquor and speeding. This Court issued a notice of proposed disposition in which we

proposed to affirm. Defendant has filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} Defendant raised the same issues in his appeal to this Court as he did in his on-record appeal to the district court: (1) whether there was sufficient evidence to convict Defendant of DWI (impaired to the slightest degree); and (2) whether there was sufficient evidence to convict Defendant of DWI (per se). [DS 5; RP 43] The district court concluded that the evidence was sufficient to support a finding of guilt on the charge of DWI (impaired to the slightest degree) and determined that it consequently need not resolve the question of the sufficiency of the evidence on the charge of DWI (per se). [RP 66-68] We proposed in our calendar notice to agree with and adopt the district court's well-reasoned analysis as our own for purposes of this appeal. [CN 2]

{3} Defendant's memorandum in opposition does not point to any specific errors in fact or in law in our calendar notice or in the district court's opinion. *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."). Instead, Defendant continues to argue that the evidence presented was insufficient to support a finding of guilt beyond a reasonable doubt. [MIO 1]

{4} We conclude that Defendant has not met his burden to clearly demonstrate that the metropolitan court erred in this case. *See State v. Aragon*, 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d 1211 (stating that there is a presumption of correctness in the rulings or decisions of the trial court, and the party claiming error bears the burden of showing such error). Accordingly, for the reasons stated above, as well as those provided in our calendar notice and in the district court's opinion, we affirm.

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

**TIMOTHY L. GARCIA, Judge**

**WE CONCUR:**

**JONATHAN B. SUTIN, Judge**

**M. MONICA ZAMORA, Judge**