

STATE V. STEVENS

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MICHAEL STEVENS,
Defendant-Appellant,

No. 34,080

COURT OF APPEALS OF NEW MEXICO

May 5, 2015

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Douglas R.
Driggers, District Judge

COUNSEL

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

Alderman Law Firm, Kimberly Alderman, Denver, CO, for Appellant

JUDGES

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

AUTHOR: JAMES J. WECHSLER

MEMORANDUM OPINION

WECHSLER, Judge.

{1} Defendant Michael Stevens appeals from the amended judgment, order and commitment to the corrections department, following his plea agreement with the State and his initial sentencing.

{2} This Court issued a calendar notice proposing to affirm Defendant's convictions for larceny and receiving stolen property, reverse the district court's amended judgment, and remand the case to the district court to resentence Defendant consistent with the original written judgment. We also proposed to conclude that, to the extent that Defendant raised an ineffective assistance of counsel claim because trial counsel failed to preserve the aforementioned issues for appeal, Defendant could not demonstrate prejudice because this Court addressed his issues on appeal.

{3} Defendant and the State filed separate responses in support of our notice. Accordingly, for the reasons stated in our notice of proposed disposition, we affirm Defendant's convictions for larceny and receiving stolen property, reverse the district court's amended judgment, and remand the case to the district court to resentence Defendant consistent with the original written judgment for imposition of a total of six and one-half years of imprisonment, followed by parole.

{4} IT IS SO ORDERED.

JAMES J. WECHSLER, Judge

WE CONCUR:

CYNTHIA A. FRY, Judge

M. MONICA ZAMORA, Judge