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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-37946

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

XAVIER LOVING,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY
Fred T. Van Soelen, District Judge**

Hector H. Balderas, Attorney General
Santa Fe, NM
M. Victoria Wilson, Assistant Attorney General
Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Will O'Connell, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

ZAMORA, Chief Judge.

{1} Defendant appeals from his convictions for shooting at a dwelling or occupied structure, aggravated assault with a firearm, and felon in possession of a firearm. This Court's second notice proposed to reverse Defendant's conviction for shooting at a dwelling, and to affirm the remaining convictions. Defendant filed a memorandum in partial opposition, and the State filed a notice of intent not to file a memorandum in opposition, to the proposed disposition. Relying on the facts, authorities, and arguments

in the docketing statement, Defendant continues to oppose affirmance of his convictions for aggravated assault with a firearm and felon in possession of a firearm. [MIO 1] Defendant's memorandum in opposition does not, however, raise any new arguments or authority to persuade this Court that reversal is warranted. Thus, for the reasons stated in our second notice of proposed disposition, we reverse Defendant's conviction for shooting at a dwelling and affirm the remaining convictions.

{2} IT IS SO ORDERED.

M. MONICA ZAMORA, Chief Judge

WE CONCUR:

LINDA M. VANZI, Judge

MEGAN P. DUFFY, Judge