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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

NO. A-1-CA-38240

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

FREDDIE CARLOS FLORES,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF LEA COUNTY
Mark Terrence Sanchez, District Judge**

Hector H. Balderas, Attorney General
Anne Minard, Assistant Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Kathleen T. Baldrige, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

VANZI, Judge.

{1} Defendant appeals from the district court's order revoking his probation, partially suspending his license and committing him to the detention center. We were persuaded by Defendant's docketing statement and proposed to reverse the revocation of Defendant's probation (1) for insufficient evidence, based on the lack of a showing of a willful violation; and (2) for violation of due process, based on the lack of good cause to dispense with the right to confrontation. The State has filed a statement declining to file a memorandum in opposition to our proposed summary reversal. "Failure to file a

memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice.” *Frick v. Veazey*, 1993-NMCA-119, ¶ 2, 116 N.M. 246, 861 P.2d 287.

{2} For the reasons stated in our notice, we reverse the district court’s revocation of Defendant’s probation and remand for further proceedings.

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

LINDA M. VANZI, Judge

WE CONCUR:

JULIE J. VARGAS, Judge

JACQUELINE R. MEDINA, Judge