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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-39094

KEN HAYNES,

Appellee-Appellee,

v.

SEAN WADE,

Appellant-Appellant.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

Joshua A. Allison, District Judge

Ken Haynes
Albuquerque, NM

Pro Se Appellee

Sean Wade
Albuquerque, NM

Pro Se Appellant

MEMORANDUM OPINION

ATTREP, Judge.

{1} Appellant appeals the district court's granting of Appellee's petition for restitution and denying a number of pending motions filed by Appellant in Appellant's de novo appeal from metropolitan court. In this Court's notice of proposed disposition, we proposed to summarily affirm. Appellant then filed a memorandum in opposition and a motion to seal. We remain unpersuaded that Appellant has shown error and we therefore affirm the ruling of the district court. In addition, we deny Appellant's motion to seal.

{2} The entirety of Appellant's memorandum in opposition "demand[s] the [C]ourt of [A]ppeals to read the transcript" below, arguing that it "stands on its own" and "was not a

trial.” [MIO] However, in our calendar notice, we explained that it was Appellant’s duty to provide this Court with the facts, argument, and information necessary to address and understand his appellate arguments, and we proposed to affirm based on his failure to provide this information unless his memorandum in opposition provided the relevant facts and authority demonstrating error. [CN 1-2] Appellant’s response has not provided the requested information, nor has he asserted any facts, law, or argument in his memorandum in opposition that persuades this Court that our notice of proposed disposition was erroneous. See *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; see also *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754,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.”).

{3} Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm. In addition, we deny Appellant’s motion to seal as he has not provided any reason for this Court to grant the motion.

{4} IT IS SO ORDERED.

JENNIFER L. ATTREP, Judge

WE CONCUR:

MEGAN P. DUFFY, Judge

JANE B. YOHALEM, Judge