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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-39465

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

TIFFANY MCKNIGHT,

Defendant-Appellant.

**APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO COUNTY
Victor Edmund Valdez, Metropolitan Judge**

Hector H. Balderas, 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

MEDINA, Judge.

{1} Defendant appeals the sufficiency of the evidence to support her judgment and deferred sentence, following a bench trial, for aggravated driving while intoxicated (refusal). In this Court's notice of proposed disposition, we proposed to summarily affirm. Defendant filed a memorandum in opposition, which we have duly considered. Remaining unpersuaded, we affirm.

{2} Defendant continues to argue in her memorandum in opposition that the evidence was insufficient that she was the person driving the vehicle on the evening in question. [DS 3] However, we addressed and rejected this argument in our notice of

proposed disposition. [CN 3-5] Defendant has not otherwise asserted any fact, law, or argument in her MIO that persuades us 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point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; see also *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754,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 Defendant’s conviction.

{4} IT IS SO ORDERED.

JACQUELINE R. MEDINA, Judge

WE CONCUR:

ZACHARY A. IVES, Judge

JANE B. YOHALEM, Judge