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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40073

**IN THE MATTER OF THE ESTATE
OF ERIC GABRIEL PADILLA,**

**ANDREA PANKRATZ, as Personal
Representative,**

Petitioner-Appellant,

v.

ADELINA SISK,

Respondent-Appellee.

**APPEAL FROM THE DISTRICT COURT OF ROOSEVELT COUNTY
Donna J. Mowrer, District Judge**

Eric D. Dixon, Attorney & Counselor at Law, P.A.
Eric D. Dixon
Portales, NM

for Appellant

Mark S. Sweetman
Clovis, NM

for Appellee

MEMORANDUM OPINION

ATTREP, Judge.

{1} Petitioner appeals from the district court's order granting summary judgment in favor of Respondent. We issued a notice of proposed disposition, in which we proposed to summarily affirm. Petitioner filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} As discussed in our calendar notice, the conclusion reached by the district court is supported by our precedent. [CN 3-5] Although Petitioner contends in her memorandum in opposition that summary judgment was improper [MIO 4-5], she has not identified the existence of any disputed material facts. In addition, Petitioner's assertion that the marriage "ended years ago" [MIO 4] is not supported by the uncontroverted evidence demonstrating that Respondent was legally married to the decedent at the time of his death.

{3} Petitioner's memorandum in opposition has not otherwise convinced us that our initial 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point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d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.").

{4} Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm.

{5} IT IS SO ORDERED.

JENNIFER L. ATTREP, Judge

WE CONCUR:

MEGAN P. DUFFY, Judge

ZACHARY A. IVES, Judge