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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v. **NO. 30784**

TIMOTHY J. MESCAL,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY
Thomas J. Hynes, District Judge

Gary K. King, Attorney General
Santa Fe, NM
Jacqueline R. Medina, Assistant Attorney General
Albuquerque, NM

for Appellee

Hugh W. Dangler, Chief Public Defender
Santa Fe, NM
Mark A. Curnutt, Assistant Public Defender
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

KENNEDY, Judge.

Defendant appeals his conviction for driving under the influence of intoxicating liquor (DUI). We issued a notice of proposed summary disposition proposing to reverse on the basis that the district court erred in allowing the arresting officer to give scientific evidence regarding Defendant's blood alcohol content. The State has responded that it does not oppose reversal of Defendant's conviction on this basis.

Accordingly, we reverse Defendant's conviction. Because we reverse on this basis, we do not reach the other grounds for reversal discussed in our notice of proposed summary disposition.

IT IS SO ORDERED.

RODERICK T. KENNEDY, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

TIMOTHY L. GARCIA, Judge