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6 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

7 **VILLAGE OF RUIDOSO,**

8 Plaintiff-Appellee,

9 v.

NO. 29,826

10 **LOGAN GARRISON,**

11 Defendant-Appellant.

12 **APPEAL FROM THE DISTRICT COURT OF LINCOLN COUNTY**

13 **Sandra A. Grisham, District Judge**

14 Bryant, Schneider-Cook Law Firm

15 Daniel A. Bryant

16 Ruidoso, NM

17 for Appellee

18 Logan Garrison

19 Ruidoso, NM

20 Pro Se Appellant

21 **MEMORANDUM OPINION**

22 **BUSTAMANTE, Judge.**

1 Defendant appeals the order denying his motion for rehearing. We proposed
2 to affirm in a calendar notice, and Defendant responded to our proposed disposition
3 in a memorandum in opposition. We have duly considered Defendant's arguments,
4 but we are not persuaded that affirmance is not warranted in this case. We therefore
5 affirm.

6 Defendant was issued a citation for no driver's license, the citation was upheld
7 in the municipal court, and Defendant appealed to the district court. While the case
8 was proceeding, Defendant was issued two more citations. A stipulated order, signed
9 by the parties, was entered by the district court stating that the legal issue with respect
10 to all three citations concerned standing and that legal issue would be decided by the
11 district court. [RP 33]

12 Defendant submitted an affidavit and was present at a hearing regarding the
13 standing issue. [RP 47; 53] Defendant claimed that the ordinances relied on for
14 issuance of the citations do not apply to him, and stated that he is not a person within
15 the meaning of the law. [RP 58] A few weeks after the hearing was held, Defendant
16 moved for rehearing. The district court denied the motion for rehearing and, in the
17 same order, found that Defendant is a person and the ordinance was constitutional on
18 its face and as applied to Defendant. [RP 68] Defendant requested an interlocutory

1 order and a hearing on his motion for rehearing. [RP 75; 77] This was denied by the
2 district court, and Defendant filed an appeal with this Court. [RP 82-83]

3 In response to our calendar notice, Defendant claims that he was denied an
4 opportunity to testify “to the facts” in his affidavit, the officer who issued the citation
5 was not present at the hearing, and the district court’s findings that Defendant is a
6 person and the ordinance was constitutional were not based on substantial evidence.

7 As stated in our calendar notice, we review the district court’s decision on the motion
8 for rehearing for abuse of discretion. *State v. Donahoo*, 2006-NMCA-147, ¶ 14, 140
9 N.M. 788, 149 P.3d 104. In addition, there is a presumption of correctness in the
10 rulings or decisions of the trial court, and the party claiming error bears the burden of
11 showing such error. *State v. Aragon*, 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d
12 1211.

13 Defendant submitted an affidavit stating that he is a human being but not a
14 natural person, that he has no driver’s license, and that he was traveling, but not for
15 hire or in commerce. [RP 47] The district court accepted the affidavit as true, with
16 the exception of the statement that Defendant is not a natural person. On that point,
17 Defendant was allowed to argue his position at length and was provided an
18 opportunity to submit case law in support of his claim that he is not a natural person.

1 Because the other statements in the affidavit were accepted as true and because
2 Defendant had ample opportunity to present his case that he is not a natural person,
3 it was not necessary for Defendant to testify about the “facts” included in his affidavit.

4 An order was stipulated to by the parties that the issue to be decided was the
5 legal question of whether there was standing to issue the citation, and that the district
6 court would decide that legal issue for all three citations issued to Defendant. [RP 33]
7 There is nothing to indicate that it would have been necessary for the district court to
8 gather more factual information from the officer in order to decide the legal issue of
9 standing. In addition, Defendant agreed, through the stipulated order, to have the
10 district court decide the case by deciding the legal issue only. Because of this
11 agreement, Defendant cannot now claim that he was denied a right to confront the
12 officer because the officer was not present at the hearing. *See State v. Reynolds*, 111
13 N.M. 263, 267, 804 P.2d 1082, 1086 (Ct. App. 1990) (explaining that a party cannot
14 complain of prejudice that might have resulted from a situation which he participated
15 in creating).

16 Defendant claims that the district court had no support for its findings that
17 Defendant is a natural person and that Defendant was “within the purview” of the
18 ordinance. Defendant continues to claim that the ordinance is vague and overbroad,

1 but cites no authority in support of his claims. [MIO 4] At the end of the hearing, the
2 district court granted Defendant more time to submit authority for his claim that he is
3 not a person, but none was submitted. Defendant did not provide any support for his
4 claim that he is not a person or for his claim that the ordinance is unconstitutional.
5 *See In re Adoption of Doe*, 100 N.M. 764, 765, 676 P.2d 1329, 1330 (1984) (stating
6 that appellate court will not consider an issue if no authority is cited in support of the
7 issue).

8 In addition, there was sufficient evidence before the district court to support the
9 findings, and there was nothing presented to support Defendant's claims. Defendant
10 was issued a citation for failing to have a driver's license while driving on a road in
11 this state. There was no objection to the admission of the ordinance relied on for the
12 citation, the district court took judicial notice of the ordinance, and Defendant's
13 affidavit states that he has no driver's license and has never had a driver's license.
14 The district court found that Defendant is a person, that the ordinance was not
15 unconstitutional, and that the ordinance was constitutional as applied to Defendant.
16 We hold that the district court did not err in making those findings.

17 For the reasons discussed above and in our calendar notice, we affirm
18 Defendant's conviction.

1

IT IS SO ORDERED.

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3

MICHAEL D. BUSTAMANTE, Judge

4 **WE CONCUR:**

5

6 **LINDA M. VANZI, Judge**

7

8 **TIMOTHY L. GARCIA, Judge**