

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

Court of Appeals of New Mexico
Filed 1/11/2023 11:42 AM

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

5 **CHARLENE CHAPMAN,**

6 Defendant-Appellant.



Mark Reynolds

No. A-1-CA-40511

7 **APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY**

8 **Drew D. Tatum, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Mary Barket, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **BOGARDUS, Judge.**

18 {1} Defendant appealed her conviction for aggravated battery on a household

19 member (deadly weapon). We issued a notice of proposed summary disposition in

20 which we proposed to affirm. Defendant has filed a memorandum in opposition.

21 After due consideration, we remain unpersuaded. We therefore affirm.

1 {2} Because the relevant background information has previously been set forth,
2 we will avoid undue reiteration here, and focus instead on the substantive content of
3 the memorandum in opposition.

4 {3} Defendant renews her challenge to the denial of her requested instruction on
5 self-defense. [MIO 7-15] However, as we observed in the notice of proposed
6 summary disposition, [CN 2-5] evidence was not presented in support of the
7 prerequisites. *See generally State v. Lopez*, 2000-NMSC-003, ¶ 23, 128 N.M. 410,
8 993 P.2d 727 (“To support an instruction on self[-]defense, there must be evidence
9 that the defendant was put in fear by an apparent danger of immediate death or great
10 bodily harm, that the killing resulted from that fear, and that the defendant acted as
11 a reasonable person would act under those circumstances.” (internal quotation marks
12 and citation omitted)).

13 {4} The memorandum in opposition offers nothing concrete in satisfaction of the
14 essential elements. Instead, Defendant suggests that inferences could have been
15 drawn. [MIO 12-15] Succinctly stated, we remain unpersuaded that this is so. *See*
16 *generally Corley v. Corley*, 1979-NMSC-040, ¶ 6, 92 N.M. 716, 594 P.2d 1172 (“A
17 reasonable inference . . . must be a rational and logical deduction from facts admitted
18 or established by the evidence, when such facts are viewed in the light of common
19 knowledge or common experience.” (internal quotation marks and citation omitted);
20 *Sunnyland Farms, Inc. v. Cent. NM Elec. Coop., Inc.*, 2013-NMSC-017, ¶ 19, 301

1 P.3d 387 (indicating parenthetically that considering the evidence in the light most
2 favorable to a party does not require or authorize the reviewing court to supply
3 missing evidence, or to give the benefit of forced, speculative or unreasonable
4 inferences); *State v. Benton*, 1994-NMCA-113, ¶ 4, 118 N.M. 614, 884 P.2d 505
5 (explaining that a rule requiring that we indulge all reasonable inferences still does
6 not permit speculation). For the reasons previously described, [CN 2-5] we conclude
7 that no reasonable juror could have found that Defendant’s act of repeatedly stabbing
8 the unarmed victim in the back with a knife was justified as self-defense. We
9 therefore reject the assertion of error. *See generally Lopez*, 2000-NMSC-003, ¶ 23
10 (explaining that a self-defense instruction is warranted only when the evidence could
11 be said to establish all three elements of the defense); *State v. Baroz*, 2017-NMSC-
12 030, ¶ 19, 404 P.3d 769 (“Where the evidence is so slight as to be incapable of raising
13 a reasonable doubt in the jury’s mind on whether a defendant did act in self-defense,
14 the instruction should not be given.” (omission, internal quotation marks, and
15 citation omitted)).

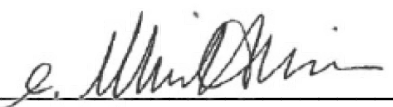
16 {5} Accordingly, for the reasons stated in our notice of proposed disposition and
17 herein, we affirm.

18 {6} **IT IS SO ORDERED.**

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KRISTINA BOGARDUS, Judge

1 **WE CONCUR:**

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3 **J. MILES HANISEE, Chief Judge**

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5 **JENNIFER L. ATTREP, Judge**