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

Court of Appeals of New Mexico
Filed 6/17/2024 9:49 AM

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,



Ramon J. Maestas
Chief Clerk

4 v.

No. A-1-CA-41754

5 **FERNANDO SILENTMAN a/k/a**

6 **FERNANDO L. SILENTMAN,**

7 Defendant-Appellant.

8 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

9 **Daylene A. Marsh, District Court Judge**

10 Raúl Torrez, Attorney General

11 Santa Fe, NM

12 for Appellee

13 Bennett J. Baur, Chief Public Defender

14 Kathleen T. Baldridge, Assistant Appellate Defender

15 Santa Fe, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **IVES, Judge.**

19 {1} This matter was submitted to this Court on Defendant's brief in chief, pursuant

20 to the Administrative Order for Appeals in Criminal Cases from the Second,

21 Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal*

22 *Appeals*, No. 2022-002, effective November 1, 2022. Having considered the brief in

23 chief, concluding the briefing submitted to this Court provides no possibility for

1 reversal, and determining that this case is appropriate for resolution on Track 1 as
2 defined in that order, we affirm for the following reasons.

3 {2} Defendant appeals from the district court’s revocation of his probation on two
4 grounds: (1) consuming drugs, and (2) failure to report to Adult Probation and Parole
5 for probation supervision. [BIC 7; RP 147] Defendant’s appeal challenges only to
6 the district court’s finding that Defendant violated probation for failure to report.
7 The sole issue raised is Defendant’s claim that the evidence presented at the
8 probation revocation hearing was insufficient to establish that his failure to report
9 for probation supervision was willful. [BIC 1, 7-10]

10 {3} As Defendant’s appeal does not address or otherwise challenge the district
11 court’s finding that Defendant violated his probation by consuming illegal drugs
12 [BIC 11], it is not strictly necessary to address Defendant’s sole appellate contention.
13 *See State v. Leon*, 2013-NMCA-011, ¶ 37, 292 P.3d 493 (holding that probation
14 revocations based on multiple violations of the terms of a defendant’s probation are
15 to be upheld “if there is sufficient evidence to support just one violation”).
16 Nevertheless, we note that the State presented evidence that on April 7, 2023,
17 Defendant signed a New Mexico Department of Corrections Probation Notification
18 document that both notified Defendant that he was on probation and ordered him to
19 report to the probation office in San Juan County for supervision. [BIC 3; Ex. 1] This
20 evidence was sufficient for the State to meet its burden of proof that Defendant was

1 informed he must report to probation. *See id.* ¶ 36 (“In a probation revocation
2 proceeding, the [s]tate bears the burden of establishing a probation violation with a
3 reasonable certainty. To meet this burden, the [s]tate must introduce evidence that a
4 reasonable and impartial mind would be inclined to conclude that the defendant has
5 violated the terms of probation.” (citations omitted)); *see also State v. Aslin*, 2018-
6 NMCA-043, ¶ 9, 421 P.3d 843 (nothing that willfulness is generally presumed upon
7 proof of a probation violation), *rev’d on other grounds*, 2020-NMSC-004, 457 P.3d
8 249. Although Defendant contends that he presented contradictory evidence
9 demonstrating his claimed belief that his probation was no longer supervised
10 following his release from prison [BIC 5], the district court judge, as fact-finder, was
11 free to reject Defendant’s version of events and conclude that the violation was
12 willful. *See State v. Sutphin*, 1988-NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314
13 (noting that the fact-finder is free to reject a defendant’s version of events).

14 {4} We will not reweigh the evidence on appeal, and must instead “view[] the
15 evidence in a light most favorable to the [s]tate and indulg[e] all reasonable
16 inferences in favor of the [district] court’s judgment.” *State v. Erickson K.*, 2002-
17 NMCA-058, ¶ 21, 132 N.M. 258, 46 P.3d 1258. As such, we see no abuse of
18 discretion in the district court’s revocation of Defendant’s probation. *See State v.*
19 *Green*, 2015-NMCA-007, ¶ 22, 341 P.3d 10.

20 {5} For the foregoing reasons, we affirm.

1 {6} IT IS SO ORDERED.

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3


ZACHARY A. IVES, Judge

4 WE CONCUR:

5 
6 MEGAN P. DUFFY, Judge

7 
8 SHAMMARA H. HENDERSON, Judge