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

2 **STATE OF NEW MEXICO,**

Court of Appeals of New Mexico
Filed 11/12/2024 11:25 AM

3 Plaintiff-Appellee,



Ramon J. Maestas
Chief Clerk

4 v.

No. A-1-CA-42071

5 **ETHAN R. SHEPPARD,**

6 Defendant-Appellant.

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

8 **Stephen Ochoa, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Kathleen T. Baldrige, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **WRAY, Judge.**

18 {1} This matter was submitted to this Court on the brief in chief pursuant to the

19 Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and

20 Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No.

21 2022-002, effective November 1, 2022. Having considered the brief in chief,

22 concluding the briefing submitted to this Court provides no possibility for reversal,

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

3 {2} Defendant appeals from the district court’s revocation of his probation based
4 on Defendant having (1) “violated the laws or ordinances of the State of New
5 Mexico, or any jurisdiction[,] and/or endangered the person or property of another”
6 and (2) “bought, sold, owned or had in his . . . possession, at any time, firearm(s),
7 ammunition or other deadly weapon(s).” [RP 105, 145] The only issue Defendant
8 raises on appeal is that the State failed to present sufficient evidence to establish that
9 he violated the conditions of his probation. [BIC 7] Specifically, Defendant argues
10 there was insufficient evidence from which the district court could infer that
11 Defendant possessed a deadly weapon or that Defendant used that weapon to inflict
12 fatal injuries on Victim. [BIC 7]

13 {3} We review the district court’s decision to revoke probation under an abuse of
14 discretion standard. *See State v. Leon*, 2013-NMCA-011, ¶ 36, 292 P.3d 493. “In a
15 probation revocation proceeding, the [s]tate bears the burden of establishing a
16 probation violation with a reasonable certainty.” *Id.*; *see State v. Sanchez*, 2001-
17 NMCA-060, ¶ 13, 130 N.M. 602, 28 P.3d 1143 (stating that a probation violation
18 must be proved to a reasonable certainty, such that a reasonable and impartial mind
19 would believe that the defendant violated the terms of probation). When reviewing
20 a challenge to the sufficiency of the evidence, we “view[] the evidence in a light

1 most favorable to the [s]tate and indulg[e] all reasonable inferences in favor of the
2 [district] court’s judgment.” *State v. Erickson K.*, 2002-NMCA-058, ¶ 21, 132 N.M.
3 258, 46 P.3d 1258.

4 {4} The State presented evidence that Defendant was seen on a surveillance video
5 at the end of a hallway where Victim was washing the floor. [BIC 8] Defendant
6 repeatedly turned around to look behind him toward the kitchen area. [Id.] When
7 Victim walked away into another room, Defendant looked behind him before pulling
8 an object out of his apron and running down the hall after Victim. [BIC 8-9] There
9 was also evidence that Defendant’s coworker followed Defendant and Victim to the
10 off-camera room and had tried to separate Defendant and Victim. [BIC 9] Defendant
11 was captured on video leaving the room with his right side covered in blood and
12 running out of the building, while his coworker ran toward the kitchen. [Id.] Victim
13 was found on the floor of the off-camera room with twelve stab wounds. [BIC 8]
14 There was testimony that, based on law enforcement’s review of the video, the object
15 Defendant pulled from his apron appeared to be a knife, but that knife was not
16 recovered. [BIC 8-9] There was also testimony that Defendant appeared uninjured
17 following the incident. [Id.]

18 {5} Defendant emphasizes that no witnesses testified to having seen Defendant
19 stab Victim, the surveillance video did not actually show any crime being
20 committed, and the State did not produce any corroborating evidence to show what

1 actually happened in the room where Victim was found. [BIC 9] Defendant asserts
2 that, without such evidence, there was not sufficient reliable evidence to support the
3 district court’s findings, and the district court therefore abused its discretion by
4 revoking Defendant’s probation. [BIC 9-10] We disagree.

5 {6} It is not this Court’s role on appeal to reweigh the evidence. *See Erickson K.*,
6 2002-NMCA-058, ¶ 21. Viewing the evidence in the light most favorable to the State
7 and indulging all reasonable inferences in favor of the district court’s decision, *id.*,
8 we conclude that there was sufficient evidence for a reasonable mind to conclude
9 that Defendant violated his conditions of probation by possessing a deadly weapon
10 and by violating the laws of the State of New Mexico and/or endangering the person
11 of another. *See State Cunningham*, 2000-NMSC-009, ¶ 29, 128 N.M. 711, 998 P.2d
12 176 (recognizing that circumstantial evidence alone can amount to substantial
13 evidence); *State v. Rojo*, 1999-NMSC-001, ¶ 23, 126 N.M. 438, 971 P.2d 829
14 (same). As such, we perceive no abuse of discretion in the district court’s revocation
15 of Defendant’s probation. *See State v. Green*, 2015-NMCA-007, ¶ 22, 341 P.3d 10
16 (“To establish an abuse of discretion, it must appear the district court acted unfairly
17 or arbitrarily, or committed manifest error.” (alteration, internal quotation marks,
18 and citation omitted)).

19 {7} Accordingly, we affirm.

1 {8} IT IS SO ORDERED.

2 Katherine A. Wray
3 KATHERINE A. WRAY, Judge

4 WE CONCUR:

5 Kristina Bogardus
6 KRISTINA BOGARDUS, Judge

7 Jacqueline R. Medina
8 JACQUELINE R. MEDINA, Judge