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

Court of Appeals of New Mexico  
Filed 1/13/2025 9:53 AM

2 **STATE OF NEW MEXICO,**



Ramon J. Maestas  
Chief Clerk

3 Plaintiff-Appellee,

4 v.

**No. A-1-CA-41841**

5 **DOMINIC DE LA O,**

6 Defendant-Appellant.

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

8 **John P. Sugg, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Nina Lalevic, Assistant Appellate Defender

14 Albuquerque, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **HANISEE, 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 judgment and sentence, convicting  
4 him of felony possession of a controlled substance (methamphetamine) and  
5 resisting, evading, or obstructing an officer. Defendant contends that insufficient  
6 evidence supports his conviction for possession of methamphetamine. [BIC 3-5] We  
7 disagree.

8 {3} When assessing the sufficiency of the evidence to support a conviction, “we  
9 view the evidence in the light most favorable to the guilty verdict, indulging all  
10 reasonable inferences and resolving all conflicts in the evidence in favor of the  
11 verdict.” *State v. Samora*, 2016-NMSC-031, ¶ 34, 387 P.3d 230 (internal quotation  
12 marks and citation omitted). We disregard all evidence and inferences that support  
13 a different result. *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829.  
14 “We then determine whether substantial evidence of either a direct or circumstantial  
15 nature exists to support a verdict of guilt beyond a reasonable doubt with respect to  
16 every element essential to a conviction.” *State v. Garcia*, 2016-NMSC-034, ¶ 15,  
17 384 P.3d 1076 (internal quotation marks and citation omitted). “Substantial evidence  
18 is relevant evidence that a reasonable mind might accept as adequate to support a  
19 conclusion.” *State v. Largo*, 2012-NMSC-015, ¶ 30, 278 P.3d 532 (internal quotation  
20 marks and citation omitted).

1 {4} Defendant contends the State failed to prove that he knew he was in  
2 possession of methamphetamine, as the offense of possession that was instructed to  
3 the jury required. [2 RP 283-84; BIC 4-5] *See State v. Smith*, 1986-NMCA-089, ¶ 7,  
4 104 N.M. 729, 726 P.2d 883 (“Jury instructions become the law of the case against  
5 which the sufficiency of the evidence is to be measured.”); *see also* UJI 14-3102  
6 NMRA (identifying the essential elements of possession of a controlled substance  
7 to include knowledge of possession).

8 {5} In the present case, a patrol officer, Officer Brown, testified that he went to  
9 the scene of the incident at issue to assist another officer, Sergeant Rincon, to  
10 apprehend a person who had a warrant for his arrest. [1 RP 261; BIC 1] That person  
11 was Defendant, who Officer Brown saw running away from Sergeant Rincon and  
12 into a carwash. [Id.] Officer Brown testified that he lost sight of Defendant, drove  
13 through one of the carwash bays, and struck Defendant with his vehicle on his way  
14 out. [BIC 1] Officer Brown saw that Defendant had a gun and ordered Defendant to  
15 drop it. [Id.] Sergeant Rincon unsuccessfully tried to taser Defendant, and Defendant  
16 refused to drop the gun. [Id.] Officer Brown shot Defendant, and Defendant fell to  
17 the ground, was arrested, given medical aid, and taken to the hospital. [BIC 1-2; 1  
18 RP 263]

19 {6} To access Defendant’s gunshot wound, Defendant’s jeans were cut off. [BIC  
20 4; 1 RP 263] Officers later found methamphetamine in the front pocket of those

1 jeans. [BIC 4-5] Defendant acknowledged to police that he was on  
2 methamphetamine for a day and a half, but stated that he did not remember having  
3 methamphetamine in his pocket. [BIC 5]

4 {7} On appeal, Defendant asserts that he was honest and open with police. [BIC  
5 5] He contends the State did not prove that the jeans Defendant was wearing were  
6 his and not borrowed and presented no evidence of Defendant's knowledge of the  
7 presence of methamphetamine in the jeans he was wearing. [Id.]

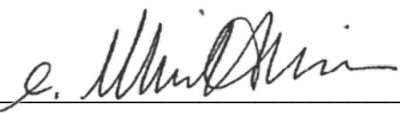
8 {8} The question of a defendant's "knowledge or intent generally presents a  
9 question of fact for a jury to decide." *State v. Wasson*, 1998-NMCA-087, ¶ 12, 125  
10 N.M. 656, 964 P.2d 820. Because knowledge, like intent, "can rarely be proved  
11 directly[, it] often is proved by circumstantial evidence." *State v. Durant*, 2000-  
12 NMCA-066, ¶ 15, 129 N.M. 345, 7 P.3d 495. "A jury may infer knowledge and  
13 control from the defendant's actions, statements, or conduct, and from circumstantial  
14 evidence connecting the defendant to the object." *State v. Martinez*, 2020-NMCA-  
15 043, ¶ 54, 472 P.3d 1241.

16 {9} We hold that the jury could properly have inferred the requisite knowledge  
17 from the circumstantial evidence of Defendant's actions and statements and the  
18 presence of the methamphetamine in his front pocket. Defendant was attempting to  
19 evade police and admitted he had been using methamphetamine at the time of the  
20 incident. *See State v. Gutierrez*, 2007-NMSC-033, ¶ 36, 142 N.M. 1, 162 P.3d 156

1 (observing that evidence of flight is admissible to show consciousness of guilt).  
2 Also, Defendant points to no evidence suggesting that the pants Defendant was  
3 wearing may have belonged to someone else. Regardless, it is for the fact-finder to  
4 resolve any conflict in the evidence and determine where the weight and credibility  
5 lie, and, on appeal, we indulge in all reasonable inferences in favor of the verdict.  
6 *Samora*, 2016-NMSC-031, ¶ 34; *see State v. Salas*, 1999-NMCA-099, ¶ 13, 127  
7 N.M. 686, 986 P.2d 482. We do not examine the evidence to support some  
8 hypothesis of innocence. *State v. Sutphin*, 1988-NMSC-031, ¶ 21, 107 N.M. 126,  
9 753 P.2d 1314.

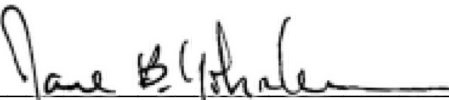
10 {10} Because we hold that substantial evidence of Defendant’s knowledge was  
11 presented, we uphold Defendant’s conviction for possession of methamphetamine  
12 and affirm the district court’s judgment and sentence. *See State v. Gallegos*, 2011-  
13 NMSC-027, ¶ 16, 149 N.M. 704, 254 P.3d 655 (“[C]ircumstantial evidence alone  
14 can amount to substantial evidence.” (internal quotation marks and citation  
15 omitted)).

16 {11} **IT IS SO ORDERED.**

17   
18 **J. MILES HANISEE, Judge**

1 **WE CONCUR:**

2   
3 **KRISTINA BOGARDUS, Judge**

4   
5 **JANE B. YOCHALEM, Judge**