

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

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

5 **MONICA MAESTAS,**

6 Defendant-Appellant.

Court of Appeals of New Mexico

Filed 2/26/2025 6:56 AM



Ramon J. Maestas
Chief Clerk

No. A-1-CA-41993

7 **APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO**
8 **COUNTY**

9 **Linda S. Rogers, Metropolitan Court Judge**

10 Raúl Torrez, Attorney General

11 Santa Fe, NM

12 for Appellee

13 Bennett J. Baur, Chief Public Defender

14 Brian Parrish, Assistant Appellate Defender

15 Santa Fe, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **WRAY, Judge.**

19 {1} Defendant appeals her conviction for driving while under the influence of
20 intoxicating liquor or drugs (DWI). We entered a notice of proposed disposition,
21 proposing to affirm. Defendant filed a memorandum in opposition to that notice,
22 which we have duly considered. Unpersuaded, we affirm.

1 {2} Defendant maintains that there was no probable cause to arrest her for DWI
2 because “[t]he cases cited by the [proposed disposition] are distinguishable.”
3 [MIO 8] Our probable cause inquiry in this circumstance is whether it was
4 objectively reasonable for the arresting officer to believe that Defendant had been
5 driving while she was impaired to the slightest degree, that is unable “to exercise the
6 clear judgment and steady hand necessary to handle a vehicle” in a safe manner. *See*
7 *State v. Sanchez*, 2001-NMCA-109, ¶ 6, 131 N.M. 355, 36 P.3d 446; UJI 14-4501
8 NMRA. In our proposed disposition, we relied on *State v. Granillo-Macias*, 2008-
9 NMCA-021, ¶ 12, 143 N.M. 455, 176 P.3d 1187, and *Schuster v. New Mexico*
10 *Department of Taxation and Revenue*, 2012-NMSC-025, 283 P.3d 288, and
11 suggested that there was probable cause to arrest Defendant based on the smell of
12 alcohol emanating from Defendant, her admission to drinking, and her poor
13 performance on the standardized field sobriety tests. [CN 2] *See also Gallegos v.*
14 *Vernier*, 2019-NMCA-020, ¶ 12, 458 P.3d 533 (affirming the district court’s
15 determination of probable cause to arrest the plaintiff for DWI based on the officer’s
16 “interaction” with the plaintiff, the plaintiff’s poor performance on the standardized
17 field sobriety tests, the odor of alcohol on the plaintiff, and the plaintiff’s admission
18 to drinking).

19 {3} Although Defendant points to several facts in those cases that are not present
20 here, such as the defendant having bloodshot, watery eyes or the officer witnessing

1 driving potentially indicative of impairment, she does not demonstrate how such
2 facts were dispositive of the court’s analysis of probable cause. [MIO 7-8] *See*
3 *Sanchez*, 2001-NMCA-109, ¶ 12 (“Each case stands on its own facts; there is no one
4 set of circumstances required for probable cause.”); *see also id.* ¶ 6 (“An officer does
5 not have to observe a suspect actually driving in an impaired manner if the officer,
6 based upon all the facts and circumstances, has reasonable grounds to believe that
7 [the d]efendant had been driving while intoxicated.”). Further, Defendant has
8 neither directly addressed our proposed disposition that the above constituted
9 probable cause nor provided us with any contrary authority. *See State v. Aragon*,
10 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d 1211 (stating that we presume
11 correctness in the trial court’s rulings and the burden is on the appellant to
12 demonstrate trial court error); *Lee v. Lee (In re Adoption of Doe)*, 1984-NMSC-024,
13 ¶ 2, 100 N.M. 764, 676 P.2d 1329 (explaining that where arguments are not
14 supported by cited authority, we presume counsel was unable to find supporting
15 authority, will not research authority for counsel, and will not review issues
16 unsupported by authority).

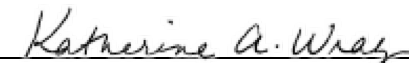
17 {4} Defendant does assert that the standardized field sobriety tests “may have
18 been conducted in such a way that calls their validity into question.” [MIO 7]
19 According to Defendant, the arresting officer testified that he gave Defendant an
20 instruction during one of the three standardized field sobriety tests and that the

1 officer was impeached using the National Highway Traffic Safety Administration
2 manual, which apparently did not state that the officer was supposed to give that
3 instruction. [MIO 4] Despite Defendant’s challenges to aspects of the officer’s
4 instructions on the one-leg stand test, Defendant does not contest that the evidence
5 showed an admission to drinking, the officer’s detection of an odor of alcohol, or
6 her other deficient performances on the field sobriety tests—she did not follow
7 instructions during the HGN test or the walk-and-turn test, had difficulty with
8 balance, and started the walk-and-turn test too soon. [MIO 7, DS 4] Defendant does
9 not demonstrate that these facts are insufficient to establish probable cause.
10 Consequently, we remain unpersuaded that our proposed disposition was erroneous.
11 *Granillo-Macias*, 2008-NMCA-021, ¶ 9 (“Our probable cause inquiry is whether it
12 was objectively reasonable for the officer to believe that [the d]efendant had been
13 driving while he was to the slightest degree impaired, that is, unable to exercise the
14 clear judgment and steady hand necessary to handle a vehicle in a safe manner.”
15 (internal quotation marks and citation omitted)).

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

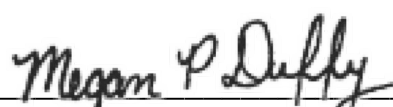
18 {6} **IT IS SO ORDERED.**

19
20


KATHERINE A. WRAY, Judge

1 WE CONCUR:

2 
3 _____
4 JENNIFER L. ATTKER, Chief Judge

4 
5 _____
6 MEGAN P. DUFFY, Judge