

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

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

5 **JESSICA MORALES,**

6 Defendant-Appellant.

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

8 **Jarod K. Hofacket, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Tyler Sciara, Assistant Solicitor General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 Kimberly Chavez Cook, Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **MEMORANDUM OPINION**

19 **HANISEE, Judge.**

20 {1} Defendant Jessica Morales appeals the revocation of her probation. Defendant

21 argues screenshots of Facebook messages should not have been admitted at her

22 probation revocation hearing and sufficient evidence does not exist to establish that

23 she violated her probation. We affirm.

Court of Appeals of New Mexico

Filed 2/27/2025 9:45 AM



Ramon J. Maestas
Clerk of the Court

No. A-1-CA-41030

1 **BACKGROUND**

2 {2} Defendant was charged with aggravated battery with a deadly weapon,
3 criminal damage to property over \$1,000, and resisting an officer after allegedly
4 striking her car into another car driven by Victim—Victim was then in a relationship
5 with Defendant’s former partner.¹ Following an initial hearing, Defendant was
6 alleged to have violated conditions of release set by the court when she made threats
7 against Victim. Based on this contact in violation of the the no contact order, the
8 district court ordered that Defendant be held in custody pending a hearing on the
9 motion to revoke conditions of release. Defendant eventually pleaded guilty to
10 aggravated battery with a deadly weapon and was sentenced on December 19, 2022.
11 Defendant was released on probation and ordered to have no contact with Victim
12 with “zero tolerance of any violations.”

13 {3} The following day, the State filed a petition to revoke probation based on
14 allegations that Victim received taunting messages from Defendant shortly after
15 midnight the night before. At the probation revocation hearing, Victim testified that
16 Defendant sent Victim Facebook messages early in the morning of December 20,
17 2022. The State moved to enter four exhibits that were purportedly messages from

¹The record is unclear if the former partner was Defendant’s ex-husband or husband.

1 Defendant to Victim. The district court admitted the exhibits over Defendant's
2 objections. Defendant testified and denied sending the messages.

3 {4} After the hearing, the district court found the State proved Defendant violated
4 the terms of her probation by contacting Victim and revoked Defendant's probation.
5 Defendant appeals the revocation of her probation.

6 **DISCUSSION**

7 **I. The District Court Did Not Err by Admitting the Text Messages**

8 {5} Defendant argues it was an error for the district court to admit the text
9 messages that purport to demonstrate Defendant contacting Victim. Although the
10 Rules of Evidence generally do not apply in adult probation revocation proceedings,
11 Rule 11-1101(D)(3)(d) NMRA, we review a district court's admission of evidence
12 at a probation revocation hearing for an abuse of discretion. *See State v. Neal*, 2007-
13 NMCA-086, ¶ 36, 142 N.M. 487, 167 P.3d 935 (reviewing the admission of evidence
14 at a probation revocation hearing for an abuse of discretion). An abuse of discretion
15 occurs when "the decision below was against logic and not justified by reason." *State*
16 *v. McDaniel*, 2004-NMCA-022, ¶ 6, 135 N.M. 84, 84 P.3d 701.

17 {6} The exhibits at issue are four purported screenshots from Victim's Facebook
18 account. Exhibit 1 is a black and white image that includes messages between
19 "Jessica" and Victim with the phone time of "12:44" and the phone battery at 8

1 percent. Jessica’s profile picture is a close-up photo of a woman with her head tilted
2 to the side. A message at “12:22 AM” from Jessica states:

3 I told you fuckn bitch ricky was gonna come back to me haha you ugly
4 ass hoe and report my ass idgaf I know my man will be there for me I
5 fuckn told you he would come back as soon as I snap my fingers
6 hahahah you ugly ass old bitch now you go cry cuz it’s over for you
7 [three laughing emojis]

8 The next message from Jessica states, “Hahah” and shows that it was sent at “12:35
9 AM.” The next message from Victim—without a timestamp—states, “Good for you
10 leave me alone then you got what you wanted.” A message from Facebook then
11 states, “You can now message and call each other and see info like Active Status
12 and when you’ve read messages.” And finally, another message from Jessica states,
13 “Hahah I’ll be having Christmas with my kids and my husband what about you??
14 Alone you thought that putting me in jail was gonna make me leave you alone you
15 stupid ass old bitch look at you know.. I’ll see you around hoe.” Victim explained
16 these were messages from Defendant and that she had received messages from
17 Defendant from this profile in the past.

18 {7} Exhibit 2 is a color screenshot taken at “3:46” with 97 percent battery. Under
19 a copy of the final message from Jessica in Exhibit 1, Exhibit 2 contains a box that
20 contains information that includes a date and time—“Tue, Dec 20, 2022” and “12:44
21 AM.” It has a text box that says “Search inside this photo” above what looks to be a
22 miniaturized and color version of Exhibit 1. Finally, it has a section that states,

1 “Details” with the name of the final as “Screenshot_20221220-
2 004437_Messenger.jpg.” Victim explained it was a screenshot that demonstrated
3 what time the messages in Exhibit 1 were sent. Victim also testified that it is a
4 screenshot of the messages she received the night she was sent the messages in
5 Exhibit 1.

6 {8} Exhibit 3 is another color screenshot taken at “12:44” with 8 percent battery.
7 The image includes a list of chats from seven people. The top most chat is from
8 “Jessica Morales” at “12:43 AM” and states, “Hahah I’ll be having Christmas...”
9 before the message gets cut off. Victim explained it was a screenshot of the messages
10 she received the night the messages in Exhibit 1 were sent.

11 {9} The final exhibit is a blurry black and white screenshot at “11:09” with 26
12 percent battery. The messages are from “Jessica Morales” on Facebook. Jessica
13 Morales’s profile picture in this exhibit is blurred but the person it depicts is front
14 facing and the head is not tilted, in contrast to the picture in Exhibit 1. The messages
15 start at “10:57 PM” and the first message from Jessica Morales states, “Tell Ricky
16 to call me you stupid bitch.” Then there is a missed call from Jessica Morales at
17 “10:58 PM.” Under that are three other messages that state, “Dumb bitch,” “I hope
18 you know the reason he still has the trailer the way it is because he wants me back
19 stupid bitch,” and “[two laughing emojis]scared ass hoe.” Victim explained that
20 these messages were some Defendant had previously sent Victim through Facebook.

1 {10} At issue is whether the December 2022 messages described above were
2 sufficiently authenticated to establish that it was Defendant who sent them. “Rule
3 11-901(B) [NMRA] provides a non[]exhaustive list of examples of evidence that
4 satisfy the authentication requirement.” *Salehpoor v. N.M. Inst. of Mining & Tech.*,
5 2019-NMCA-046, ¶ 27, 447 P.3d 1169. For instance, evidence may be authenticated
6 by a witness with knowledge “that an item is what it is claimed to be.” Rule 11-
7 901(B)(1). The authentication of evidence may also be “based on distinctive
8 characteristics [such as] appearance, contents, substance, internal patterns, or other
9 distinctive characteristics of the item, taken together with all the circumstances.”
10 *Salehpoor*, 2019-NMCA-046, ¶ 27 (internal quotation marks and citation omitted).

11 {11} The exhibits taken together demonstrate that Exhibit 1 was a timely screenshot
12 of messages from Defendant to Victim. The indicia of the authenticity of the
13 messages include the name and profile picture, the contents of the messages
14 referencing Defendant’s recent release from prison, and testimony from Victim who
15 received the messages explaining that Exhibits 1, 2, and 3 together show the timing
16 of the messages. *See State v. Jesenya O.*, 2022-NMSC-014, ¶ 24, 514 P.3d 445
17 (concluding evidence of the presence of a name and profile photo, testimony from
18 the person who received the messages, and context clues as to the authorship were
19 sufficient to authenticate screenshots of Facebook messages). This evidence was
20 sufficient to support the district court’s determination that Defendant authored the

1 messages and that the exhibits displaying the messages were what the State claimed
2 them to be. *See* Rule 11-901(A) (providing that the authentication requirement is
3 satisfied if the proponent “produce[s] evidence sufficient to support a finding that
4 the item is what the proponent claims it is”).

5 {12} Defendant argues that Exhibit 1 does not include the date and that the State
6 did not provide more specific evidence about the messages, and the evidence does
7 not support this decision to authenticate and admit the exhibits. Though there may
8 be conflicting evidence, “a proponent of evidence need not demonstrate authorship
9 conclusively to satisfy the authentication requirement.” *Jesanya O.*, 2022-NMSC-
10 014, ¶ 28. The district court’s decision to authenticate the documents was not clearly
11 against the logic and effect of the facts and circumstances of the case. *See State v.*
12 *Otto*, 2007-NMSC-012, ¶ 9, 141 N.M. 443, 157 P.3d 8 (“An abuse of discretion
13 occurs when the ruling is clearly against the logic and effect of the facts and
14 circumstances of the case.” (internal quotation marks and citation omitted)).

15 {13} Defendant claims that admitting the evidence was a violation of her due
16 process rights. She relies on *State v. Guthrie*, 2011-NMSC-014, ¶¶ 12, 40, 41, 150
17 N.M. 84, 257 P.3d 904, which established a framework to assess confrontation
18 clause violations that arise under the Fourteenth Amendment in probation revocation
19 proceedings. Defendant does not explain how evidence that was properly admitted
20 under our Rules of Evidence could violate her due process rights. As such, we

1 decline to address Defendant’s argument. *See State v. Vigil-Giron*, 2014-NMCA-
2 069, ¶ 60, 327 P.3d 1129 (explaining that where a party fails to cite any authority in
3 support of an issue, appellate courts will not consider the issue); *State v. Guerra*,
4 2012-NMSC-014, ¶ 21, 278 P.3d 1031 (noting that appellate courts have no
5 obligation to review unclear or undeveloped arguments).

6 **II. The Evidence Was Sufficient to Establish Defendant Violated the Terms**
7 **of Her Probation**

8 {14} Defendant argues that there was insufficient evidence for the district court to
9 conclude that she violated the terms of her probation. This Court reviews “a district
10 court’s revocation of a defendant’s probation for an abuse of discretion.” *State v.*
11 *Leon*, 2013-NMCA-011, ¶ 36, 292 P.3d 493. At the hearing, the State must show
12 that the probation violation occurred with a “reasonable certainty.” *Id.* “[T]he [s]tate
13 must introduce evidence that a reasonable and impartial mind would be inclined to
14 conclude that the defendant has violated the terms of probation.” *Id.*

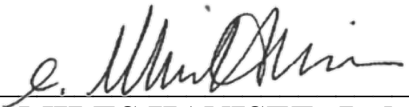
15 {15} The evidence reasonably demonstrates that Defendant messaged Victim from
16 her Facebook account on December 20, 2022, after midnight the day after she was
17 ordered to have no contact with Victim as a term of her probation. We determined
18 above that a reasonable fact-finder could determine that the screenshots of the
19 Facebook messages were authentic. It was the province of the district court to assess
20 the credibility of the witnesses and the competing testimony, including Defendant’s
21 denial of sending the messages. *See State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M.

1 686, 986 P.2d 482 (recognizing that it is for the fact-finder to resolve any conflict in
2 the testimony of the witnesses and to determine where the weight and credibility lie).
3 Thus, the evidence is sufficient.

4 **CONCLUSION**


5 {16} We affirm.

6 {17} **IT IS SO ORDERED.**

7 
8 **J. MILES HANISEE, Judge**

9 **WE CONCUR:**

10 
11 **KRISTINA BOGARDUS, Judge**

12 
13 **JACQUELINE R. MEDINA, Judge**