

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Court of Appeals of New Mexico

Filed 11/18/2025 10:11 AM

Plaintiff-Appellee,


Mark Reynolds

v.

No. A-1-CA-41937

PETE A. GARCIA,

Defendant-Appellant.

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

Asra I. Elliott, Metropolitan Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Christa Street, Assistant Solicitor General

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for Appellee

Bennett J. Baur, Chief Public Defender

Bianca Ybarra, Assistant Appellate Defender

Allison H. Jaramillo, Assistant Appellate Defender

Santa Fe, NM

for Appellant

MEMORANDUM OPINION

IVES, Judge.

{1} This matter was submitted to the Court on Defendant's brief in chief pursuant to the Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal*

1 *Appeals*, No. 2022-002, effective November 1, 2022. Following consideration of the
2 brief in chief, the Court assigned this matter to Track 2 for additional briefing. Now
3 having considered the brief in chief, the answer brief, and the reply brief, we affirm
4 for the following reasons.

5 {2} Defendant appeals his conviction for aggravated driving while intoxicated
6 (aggravated DWI). [BIC 3] Defendant asserts that there was insufficient evidence to
7 support his conviction. [Id.] When reviewing for sufficiency, we view the evidence
8 in the light most favorable to the verdict, then determine “whether the evidence
9 viewed in this manner could justify a finding by any rational trier of fact that each
10 element of the crime charged has been established beyond a reasonable doubt.” *State*
11 *v. Trossman*, 2009-NMSC-034, ¶ 16, 146 N.M. 462, 212 P.3d 350 (internal
12 quotation marks and citation omitted). We “indulg[e] all reasonable inferences and
13 resolv[e] all conflicts in the evidence in favor of the verdict.” *State v. Chavez*, 2009-
14 NMSC-035, ¶ 11, 146 N.M. 434, 211 P.3d 891 (internal quotation marks and citation
15 omitted). In reviewing for sufficiency, “[t]he reviewing court does not weigh the
16 evidence or substitute its judgment for that of the fact[-]finder as long as there is
17 sufficient evidence to support the verdict.” *Id.* (internal quotation marks and citation
18 omitted).

19 {3} We begin by noting that Defendant presents arguments both for DWI and
20 aggravated DWI. [BIC 7] According to the judgment and sentence entered on May

1 21, 2024, Defendant was convicted of aggravated DWI, which Defendant appears to
2 confirm in his reply brief, and so we address only that issue. [RB 3; MRP 44] We
3 also understand Defendant’s argument to focus exclusively on whether Defendant
4 operated a vehicle while he was impaired, but he does not dispute that he was
5 impaired to a degree sufficient to support a conviction for aggravated DWI. *Cf. State*
6 *v. Alvarez*, 2018-NMCA-006, ¶ 9, 409 P.3d 950 (“Because [the d]efendant does not
7 challenge the element of intoxication, we limit our discussion to the contested
8 question of whether [the d]efendant operated the vehicle.”). Defendant asserts that
9 “the State did not present any evidence that [Defendant] drove, and further, if he did
10 drive—that he was intoxicated at that time.” [BIC 9] The State’s evidence in this
11 regard mainly consisted of the testimony of Deputy Leroy Chavez, and his lapel
12 camera footage.

13 {4} At trial, Deputy Chavez testified that he first contacted Defendant at 9:11 p.m.
14 based on a call-for-service referencing a crash and that Defendant was the driver of
15 the vehicle. [5-20-2024 CD 2:09:16-2:10:39, 2:19:38-46] It was alleged that a truck
16 had crashed into the wall in a residential neighborhood, and when Deputy Chavez
17 arrived, Defendant was standing by the front fender of the truck on the driver’s side.
18 [AB 1; 5-20-2024 CD 7:26-8:35] Nobody else was located inside the truck or was
19 standing by the truck. [Id.] After Deputy Chavez approached Defendant, Defendant
20 gestured in the general area of the truck and stated:

1 I'm just . . . I was just taking the truck for a test drive . . . you know
2 what I mean? I live on the other side of the road. I was trying to take it
3 for a test drive. I turned around. [My neighbors] think that I hit their
4 wall and it fell over. Which it ain't fell over. And I was going home.
5 That's all it is.

6 [St. Ex 1 6:39-6:57] Defendant later stated a few more times that he was driving the
7 truck. [St. Ex. 1 8:13-8:30] Based on the above, we conclude that there was sufficient
8 evidence to support the metropolitan court's finding that Defendant operated a
9 vehicle.

10 {5} Turning to whether he was impaired when he drove, Defendant asserts that
11 there was no evidence establishing when he actually drove the truck. [RB 1] *See*
12 *State v. Cotton*, 2011-NMCA-096, ¶ 14, 150 N.M. 583, 263 P.3d 925 (holding that,
13 in order prove that a defendant drove while impaired in violation of NMSA 1978,
14 Section 66-8-102 (2016), there must be evidence "presented to prove that the driving
15 and impairment overlapped"). Under our standard of review, we conclude there was
16 enough circumstantial evidence for the fact-finder to reasonably infer that Defendant
17 had driven the truck while he was impaired. *See* UJI 14-4506 NMRA (requiring the
18 fact-finder to find that the defendant operated a motor vehicle and that, within three
19 hours of driving, the defendant had an alcohol concentration of .16 grams or more
20 and the alcohol concentration resulted from alcohol consumed before or while
21 driving the vehicle in order to convict the defendant of aggravated DWI).

1 {6} As we have noted, Deputy Chavez responded to the crash around 9:11 p.m.
2 [AB 8] When Deputy Chavez arrived, he discovered Defendant's truck in the middle
3 of the road with the lights on, Defendant was standing by the front fender on the
4 driver's side, there were no other civilians around Defendant, and Defendant stated
5 he lived on the road and was on his way back from the test drive, facts suggesting
6 the incident had just occurred prior to the deputy's arrival. [AB 3-4] *See Alvarez*,
7 2018-NMCA-006, ¶ 16 (concluding that the defendant had recently drove his truck
8 into a median while impaired when the dispatch call reported that someone had
9 observed the truck stuck in the median trying to pull back into traffic, the truck was
10 found stuck in the median when officers responded to the scene, and the truck's
11 hazard lights were on). When speaking with Deputy Chavez, Defendant indicated
12 that he was "just" taking the truck out for a test drive, which the State asserts could
13 reasonably imply that he had done so very recently. [AB 7-8] After admitting to
14 drinking, Defendant stated, "I'm not going to lie to you . . . I live just right there. I
15 was working on my vehicle . . . I took it for a test drive." [St. Ex 1 7:38-7:47]
16 Defendant then acknowledged he had a tall can of beer about forty-five minutes
17 prior. [St. Ex 1 7:58-8:08] Defendant's response could reasonably be interpreted to
18 mean that Defendant was admitting to drinking before he took the truck for a test
19 drive, and this all had occurred within the last forty-five minutes before his
20 admission. [St. Ex. 1 7:30-8:25] Later while Defendant was seated in the back of a

1 police vehicle, Defendant stated the following after finding out the vehicle was going
2 to be towed: “I didn’t do anything wrong. I was just drunk.” [St. Ex. 1 25:30-35]
3 There was no evidence submitted at trial that Defendant consumed alcohol after
4 hitting the wall and “a reasonable juror could infer that the collision itself was
5 evidence of [the d]efendant’s impairment at the time he operated the vehicle.” *See*
6 *State v. Willyard*, 2019-NMCA-058, ¶ 26, 450 P.3d 445. Consequently, based on our
7 standard of review, we conclude that the fact-finder could have reasonably inferred
8 based on the circumstantial evidence before it that Defendant operated a vehicle
9 while he was impaired. *See State v. Mailman*, 2010-NMSC-036, ¶ 28, 148 N.M. 702,
10 242 P.3d 269 (holding that circumstantial evidence to infer that the defendant drove
11 while intoxicated can include the defendant’s own admissions, the location of the
12 vehicle, or any other similar evidence).

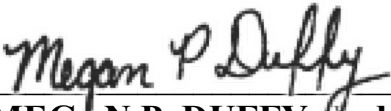
13 {7} In his reply brief, Defendant takes issue with the State’s suggested
14 interpretation of Defendant’s use of the word “just” in the lapel video. “The State
15 ascribes particular significance to the word ‘just’ as being ‘immediately prior to the
16 police officers respond[ing] to the scene[.]’ But this conclusion relies on pure
17 speculation—‘just’ could mean ‘immediately before,’ but it could equally well mean
18 ‘only.’” [RB 2] Certainly, this is a reasonable alternative interpretation of
19 Defendant’s statements. However, “[w]hen a defendant argues that the evidence and
20 inferences present two equally reasonable hypotheses, one consistent with guilt and

1 another consistent with innocence, our answer is that by its verdict, the jury has
2 necessarily found the hypothesis of guilt more reasonable than the hypothesis of
3 innocence.” *State v. Montoya*, 2005-NMCA-078, ¶ 3, 137 N.M. 713, 114 P.3d 393.
4 Here, as we have already concluded, it was reasonable for the fact-finder to interpret
5 Defendant’s statement to imply he had driven recently. Accordingly, we affirm
6 Defendant’s conviction for aggravated DWI.

7 {8} **IT IS SO ORDERED.**

8
9 
ZACHARY A. IVES, Judge

10 **WE CONCUR:**

11 
12 **MEGAN P. DUFFY, Judge**

13 
14 **SHAMMARA H. HENDERSON, Judge**