

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico

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STATE OF NEW MEXICO,

Plaintiff-Appellee,



Mark Reynolds

v.

No. A-1-CA-43033

NATALIA DURAN,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY

Angie K. Schneider, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Kathleen T. Baldrige, Assistant Appellate Defender

Santa Fe, NM

for Appellant

MEMORANDUM OPINION

WRAY, Judge.

{1} This matter was submitted to the Court on the 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 Appeals*, No.
2022-002, effective November 1, 2022. Having considered the brief in chief,
concluding the briefing submitted to the 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 her conviction for aggravated assault with a deadly
4 weapon, contrary to NMSA 1978, Section 30-3-2(A) (1963). [BIC 1] Defendant
5 argues that the evidence was insufficient to show that she acted with the general
6 criminal intent required to commit aggravated assault. [BIC 1] When assessing the
7 sufficiency of the evidence, “we view the evidence in the light most favorable to the
8 guilty verdict, indulging all reasonable inferences and resolving all conflicts in the
9 evidence in favor of the verdict.” *State v. Samora*, 2016-NMSC-031, ¶ 34, 387 P.3d
10 230 (internal quotation marks and citation omitted). “We then determine whether
11 substantial evidence of either a direct or circumstantial nature exists to support a
12 verdict of guilt beyond a reasonable doubt with respect to every element essential to
13 a conviction.” *State v. Garcia*, 2016-NMSC-034, ¶ 15, 384 P.3d 1076 (internal
14 quotation marks and citation omitted). “Substantial evidence is relevant evidence
15 that a reasonable mind might accept as adequate to support a conclusion.” *State v.*
16 *Largo*, 2012-NMSC-015, ¶ 30, 278 P.3d 532 (internal quotation marks and citation
17 omitted). We disregard all evidence and inferences that support a different result.
18 *See State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829.

19 {3} We begin by looking to the jury instructions to determine what the jury was
20 required to find in order to convict Defendant beyond a reasonable doubt. *See State*

1 *v. Holt*, 2016-NMSC-011, ¶ 20, 368 P.3d 409 (“The jury instructions become the
2 law of the case against which the sufficiency of the evidence is to be measured.”
3 (alterations, internal quotation marks, and citation omitted)). In order to support a
4 conviction for aggravated assault, the State was required to prove beyond a
5 reasonable doubt that Defendant: (1) “drove a car up to [Victim] and chased her”;
6 (2) “[D]efendant’s conduct caused [Victim] to believe [D]efendant was about to
7 intrude on [Victim]’s bodily integrity or personal safety by touching or applying
8 force to [Victim] in a rude, insolent or angry manner”; (3) “[a] reasonable person in
9 the same circumstances as [Victim] would have had the same belief”; (4)
10 “[D]efendant used [a car as] a deadly weapon”; and (5) these events took place “in
11 New Mexico on or about the 24th day of August, 2023.” [RP 157] *See* UJI 14-305
12 NMRA.

13 {4} Defendant argues that the State failed to present sufficient evidence of
14 “conscious wrongdoing” on her part [BIC 13], and that no rational view of the
15 evidence could lead to the conclusion that she drove her car “in a way that was
16 subjectively and objectively threatening” [BIC 8]. According to Defendant, she “did
17 not drive her car up to [Victim] and chase her; she simply drove her car.” [BIC 8]
18 Defendant further insists that there is insufficient evidence that she was aware of the
19 fact that her conduct was assaultive. [BIC 10]

1 {5} At trial, the State presented the following evidence. While Victim and
2 Defendant were not personally acquainted, Defendant's sister and Victim's husband
3 were in a custody battle over their child. [BIC 1] On the evening of August 24, 2023,
4 Victim encountered Defendant at a gas station in Alamogordo, New Mexico. [BIC
5 1] While the two were at the gas pumps, Victim approached Defendant's car and
6 they exchanged words. [BIC 1] Victim walked away toward the convenience store,
7 and Defendant pulled up behind Victim. [BIC 1-2] The two again exchanged words,
8 during which Victim made hand gestures toward Defendant. [BIC 2] Victim testified
9 that it had scared her when Defendant pulled up behind her. [BIC 2] Victim then
10 proceeded into the store, and Defendant drove away to another set of gas pumps.
11 [BIC 2] On her way back to her motorcycle from the store, Victim can be seen on
12 the surveillance video gesturing toward where Defendant was parked. [BIC 2]
13 Defendant then drove on the opposite side of the pump from Victim while Victim
14 was preparing to pump gas, and Victim testified that she started recording the
15 interaction on her cell phone because she felt threatened. [BIC 2] The cell phone
16 recording was admitted into evidence. [BIC 2] Victim testified that Defendant said,
17 "You'd be lucky if you make it home, bitch." [BIC 2] Defendant parked near the
18 front of the store while Victim filled her tank. [BIC 3] When Victim left the parking
19 lot, Defendant drove quickly in the same direction behind Victim; the motorcycle
20 and the car were both traveling fast. [BIC 3, 12] The State entered into evidence the

1 convenience store's surveillance video, which captured most of this interaction
2 between Defendant and Victim. [BIC 1]

3 {6} When Victim left the parking lot, Defendant chased her at a high rate of speed
4 down the highway, and when Victim made a U-Turn to travel in the opposite
5 direction, Defendant did the same. [BIC 3, 12] Victim testified that Defendant
6 followed her onto a relief route and traveled so close to her motorcycle that Victim
7 could feel the heat of Defendant's car engine on her leg. [BIC 12] Victim testified
8 that she thought Defendant was trying to run her off the road and that she thought
9 she would be killed. [BIC 3-4, 12] Victim also testified that she had never driven
10 that fast and that she was scared for her life. [BIC 4] The convenience store's
11 surveillance video shows Victim's motorcycle travelling on the highway with
12 Defendant following closely behind. [BIC 3]

13 {7} Viewing the evidence in the light most favorable to the State, resolving all
14 conflicts and making all permissible inferences in favor of the jury's verdict, we
15 conclude that the evidence presented in this case was sufficient to support
16 Defendant's conviction for aggravated assault. Regarding Defendant's assertion that
17 she was just driving—not chasing Victim—and the evidence that might support that
18 interpretation of the facts [BIC 13], we note that our standard of review neither
19 permits us to consider the evidence that supports her assertion nor overturn the jury's
20 implicit rejection of Defendant's interpretation of the evidence. *See Rojo*, 1999-

1 NMSC-001, ¶ 19 (explaining that our Supreme Court disregards all evidence and
2 inferences that support a different result in examining a sufficiency challenge on
3 appeal); *State v. Montoya*, 2005-NMCA-078, ¶ 3, 137 N.M. 713, 114 P.3d 393
4 (“When a defendant argues that the evidence and inferences present two equally
5 reasonable hypotheses, one consistent with guilt and another consistent with
6 innocence, our answer is that by its verdict, the jury has necessarily found the
7 hypothesis of guilt more reasonable than the hypothesis of innocence.”); *see also*
8 *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (recognizing
9 that it is for the fact-finder to resolve any conflict in the testimony of the witnesses
10 and to determine where the weight and credibility lie).

11 {8} We are similarly unpersuaded by Defendant’s argument that there is
12 insufficient evidence of intent because she never stated that she intended to harm or
13 threaten Victim. [BIC 9, 13] Intent need not be established by direct evidence, but
14 may be inferred from the defendant’s conduct and the surrounding circumstances.
15 *State v. Michael S.*, 1995-NMCA-112, ¶ 7, 120 N.M. 617, 904 P.2d 595; *see also*
16 *State v. Flores*, 2010-NMSC-002, ¶ 19, 147 N.M. 542, 226 P.3d 641 (stating that
17 “circumstantial evidence alone can amount to substantial evidence” and that “intent
18 is subjective and is almost always inferred from other facts in the case” (alteration,
19 omission, internal quotation marks, and citation omitted)), *overruled on other*
20 *grounds by State v. Martinez*, 2021-NMSC-002, ¶ 87, 478 P.3d 880. In addition,

1 Victim testified that she thought she would be killed and that Defendant's actions
2 made her feel worried, threatened, and scared for her life. [BIC 2, 4] The testimony
3 of a single witness constitutes sufficient evidence to uphold a conviction. *See, e.g.,*
4 *State v. Roybal*, 1992-NMCA-114, ¶ 9, 115 N.M. 27, 846 P.2d 333.

5 {9} Lastly, Defendant contends that the judgment and sentence contain a clerical
6 error in need of correction. [BIC 6] We agree. The jury convicted Defendant of
7 aggravated assault in district court case number D-1215-CR-2024-00002. [RP 1,
8 177] The judgment and sentence, however, refers to the case as D-1215-CR-2024-
9 00005. [RP 187] This discrepancy appears to have been a result of a typographical
10 error, which the district court has authority to correct at any time. *See* Rule 5-113(B)
11 NMRA (allowing the district court to correct, at any time, clerical mistakes in
12 judgments and orders that arise from "oversight or omission"). Therefore, while we
13 affirm Defendant's conviction, we remand to the district court to enter an amended
14 judgment and sentence correcting the typographical error.

15 {10} **IT IS SO ORDERED.**

16 
17 **KATHERINE A. WRAY** Judge

18 **WE CONCUR:**

19 
20 **J. MILES HANISEE, Judge**

21 
22 **JENNIFER L. ATTKER, Judge**