



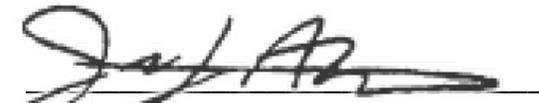
1 {2} Defendant challenges the sufficiency of the evidence to support his conviction  
2 for aggravated fleeing a law enforcement officer [MIO 2-5], which we proposed to  
3 affirm in our calendar notice. In his memorandum in opposition, Defendant  
4 maintains that there was insufficient evidence to support his conviction, specifically  
5 arguing that the State failed to prove he drove in a willful and careless manner that  
6 endangered the life another. [Id.] Defendant argues that the statutory language under  
7 NMSA 1978, Section 30-22-1.1 (2022) requires actual endangerment [MIO 3-4] and  
8 that because the officer testified that he did not see any other vehicles or any  
9 pedestrians during the 200-yard span that his emergency lights were activated, there  
10 was insufficient evidence he drove in a manner that endangered the life of another.  
11 [MIO 2; RP 114]

12 {3} We stated in our calendar notice, and Defendant acknowledges in his  
13 memorandum in opposition, that our Supreme Court in *State v. Vest*, 2021-NMSC-  
14 020, ¶ 19, 488 P.3d 626, ruled that the statutory language under Section 30-22-1.1  
15 does not require actual endangerment. [CN 4-5; MIO 4] Defendant points to the  
16 dissent in *Vest* and argues that “[t]his case implicates and demonstrates the logic of  
17 Justice Thom[]son’s dissent.” [MIO 4] However, because there is New Mexico  
18 Supreme Court precedent specifically acknowledging that proof of actual  
19 endangerment is not required, this Court is in no position to deviate from that  
20 precedent. *See Vest*, 2021-NMSC-020, ¶ 19 (stating that Section 30-22-1.1 “does not

1 require that an identifiable person was actually endangered as a result of the  
2 defendant's flight from law enforcement"); *see also Alexander v. Delgado*, 1973-  
3 NMSC-030, ¶¶ 8-10, 84 N.M. 717, 507 P.2d 778 (holding that the Court of Appeals  
4 is bound by, and may not overrule or deviate from New Mexico Supreme Court  
5 precedent).

6 {4} For the reasons stated in our notice of proposed disposition and herein, we  
7 affirm.

8 {5} **IT IS SO ORDERED.**

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JENNIFER L. ATTREP, Judge

11 **WE CONCUR:**

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13 ZACHARY A. IVES, Judge

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15 SHAMMARA H. HENDERSON, Judge