

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

Court of Appeals of New Mexico

2 **STATE OF NEW MEXICO,**

Filed 3/3/2026 9:50 AM

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-42545

5 **GLORIA TESILLO,**

6 Defendant-Appellant.

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

8 **Cindy Leos, District Court Judge**

9 Raúl Torrez, Attorney General
10 Teresa Ryan, Assistant Solicitor General
11 Santa Fe, NM

12 for Appellee

13 Bennett J. Baur, Chief Public Defender
14 Maria A. Pomorksi, Assistant Appellate Defender
15 Santa Fe, NM

16 for Appellant

17 **MEMORANDUM OPINION**

18 **BACA, Judge.**

19 {1} Following a trial in district court, Defendant was convicted of child abuse
20 resulting in death (child under twelve), contrary to NMSA 1978, Section
21 30-6-1(D)(1) (2009). On appeal, Defendant argues that the State did not present
22 sufficient evidence to support the conviction. We affirm.

1 **DISCUSSION**

2 **I. Standard of Review**

3 {2} “The test for sufficiency of the evidence is whether substantial evidence of
4 either a direct or circumstantial nature exists to support a verdict of guilt beyond a
5 reasonable doubt with respect to every element essential to a conviction.” *State v.*
6 *Duran*, 2006-NMSC-035, ¶ 5, 140 N.M. 94, 140 P.3d 515 (internal quotation marks
7 and citation omitted). Substantial evidence is defined as “such relevant evidence as
8 a reasonable mind might accept as adequate to support a conclusion.” *State v.*
9 *Salgado*, 1999-NMSC-008, ¶ 25, 126 N.M. 691, 974 P.2d 661 (internal quotation
10 marks and citation omitted), *overruled on other grounds by State v. Martinez*,
11 2021-NMSC-002, 478 P.3d 880. “In reviewing the sufficiency of the evidence, we
12 must view the evidence in the light most favorable to the guilty verdict, indulging
13 all reasonable inferences and resolving all conflicts in the evidence in favor of the
14 verdict.” *State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176.
15 “The relevant question is whether, after viewing the evidence in the light most
16 favorable to the prosecution, *any* rational trier of fact could have found the essential
17 elements of the crime beyond a reasonable doubt.” *Id.* (alteration, internal quotation
18 marks, and citation omitted). We will not “re[]weigh the evidence to determine if
19 there was another hypothesis that would support innocence or replace the
20 fact-finder’s view of the evidence with the appellate court’s own view of the

1 evidence.” *See State v. Garcia*, 2005-NMSC-017, ¶ 12, 138 N.M. 1, 116 P.3d 72.
2 We disregard all evidence and inferences that support a different result. *See State v.*
3 *Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829.

4 **II. Sufficient Evidence Supports the Conviction**

5 {3} The following facts are undisputed: Defendant was K.T.’s parent, and K.T.’s
6 death was caused by “the toxic effects of methamphetamine.” Defendant’s sole
7 argument on appeal is that the State failed to prove that any action by Defendant
8 resulted in K.T.’s death. “The jury instructions become the law of the case against
9 which the sufficiency of the evidence is to be measured.” *State v. Holt*,
10 2016-NMSC-011, ¶ 20, 368 P.3d 409 (alterations, internal quotation marks, and
11 citation omitted). Consequently, we consider the instruction given to the jury for the
12 child abuse resulting in death (child under twelve) charge.

13 {4} As to this charge, the jury was instructed that, to convict Defendant, the State
14 had to prove each of the following elements beyond a reasonable doubt:

- 15 1. [Defendant] caused or permitted [K.T.] to be exposed to
16 controlled substances or the use of controlled substances;
- 17 2. By engaging in the conduct described in Paragraph 1,
18 [Defendant] caused or permitted [K.T.] to be placed in a situation
19 that endangered the life or health of [K.T.];
- 20 3. [Defendant] showed a reckless disregard for the safety or health
21 of [K.T.]. To find that [Defendant] showed a reckless disregard,
22 you must find that [Defendant]’s conduct was more than merely
23 negligent or careless. Rather, you must find that [Defendant]
24 caused or permitted a substantial and unjustifiable risk of serious

1 harm to the safety or health of [K.T.]. A substantial and
2 unjustifiable risk is one that any law-abiding person would
3 recognize under similar circumstances and that would cause any
4 law-abiding person to behave differently than [Defendant] out of
5 concern for the safety or health of [K.T.];

6 4. [Defendant] was a parent, guardian or custodian of the child, or
7 [Defendant] had accepted responsibility for the child's welfare;

8 5. [Defendant]'s conduct resulted in the death of [K.T.];

9 6. [K.T.] was under the age of twelve (12); and

10 7. This happened in New Mexico on or about the 16th day of July,
11 2023.

12 {5} As stated, it is undisputed that K.T.'s death was caused by the toxic effects of
13 methamphetamine. Accordingly, a reasonable jury could infer that K.T. was exposed
14 to methamphetamine before her death. Defendant maintains that the State failed to
15 connect her to K.T.'s exposure to methamphetamine, and thus the State failed to
16 prove that Defendant's conduct resulted in K.T.'s death. We are unpersuaded.

17 {6} We note that the jury instruction in this case did not limit the State to proving
18 that Defendant caused or permitted K.T. to be exposed to methamphetamine, rather,
19 the jury instruction required the jury to find that Defendant caused or permitted K.T.
20 to be exposed to controlled substances or the use of controlled substances. But, even
21 assuming the State was limited to proving that Defendant caused or permitted K.T.
22 to be exposed to methamphetamine, we would reach the same result. We explain.

1 {7} At trial Defendant testified that she worked at the front desk of a motel in
2 which she and K.T., along with K.T.'s twin sister, also lived at the time in an
3 available room. Defendant testified that K.T.'s father would watch K.T. when
4 Defendant could not take K.T. to work with her. Defendant told law enforcement
5 that she knew K.T.'s father regularly used fentanyl and that he stored the
6 paraphernalia in the bathroom of Defendant's motel room. On the day of K.T.'s
7 death, Defendant was expected to report to work that morning, but because no other
8 childcare was available, Defendant left K.T. in the care of K.T.'s father. Several
9 hours into Defendant's shift, K.T.'s father told Defendant that K.T. was purple.
10 Defendant rushed back to the motel room and found K.T. unresponsive in the bed.

11 {8} Law enforcement responded to the scene shortly thereafter. The investigating
12 detective testified that, as he approached the room where K.T. was found, he noticed
13 "a strong chemical odor emitting from the doorway." He testified that he had smelled
14 this odor before and that he associated the odor with the use of illicit drugs,
15 specifically with methamphetamine and fentanyl. He further testified that he had
16 smelled this odor "close to 100 times" during the course of his career. He testified
17 that the odor was "overwhelming" when he entered the room.

18 {9} The jury viewed photographs that were taken of Defendant's room where K.T.
19 was found. Some of the photographs showed a discolored straw found in a child's
20 car seat, "a stack of used foils" between the toilet and the bathtub, and a glass pipe

1 on top of the toilet. Many of the foils depicted in the photographs show black lines
2 in the center portion of the foil. *See State v. Graham*, 2005-NMSC-004, ¶ 12, 137
3 N.M. 197, 109 P.3d 285 (explaining that because the Legislature has determined that
4 Schedule I substances are “particularly dangerous to minors,” it was within the
5 juror’s experience to decide whether the amount of the accessible illegal substance
6 endangered the health of the children).

7 {10} The detective testified that straws are typically used to consume illicit drugs,
8 specifically that individuals consuming illicit drugs “put the product on the foil,
9 they’ll apply a heating source below it to kind of start burning it, and they’ll use the
10 straw to inhale the smoke that’s created from it” and that the discoloration observed
11 on the straw was consistent with this method of drug use. The detective further
12 testified that “once a foil is used, you’ll typically see black ash or markings on the
13 foil of where the substance travelled on the foil as it was being heated.” As to the
14 glass pipe, the detective testified that glass pipes can be used to burn illicit drugs and
15 inhale the smoke and that these pipes are typically associated with “almost any drug
16 today.” Defendant testified that the paraphernalia was not in the bathroom when she
17 left for work that morning. The jury, as the trier of fact, was entitled to weigh the
18 photographic evidence of the paraphernalia and condition of the bathroom in
19 Defendant’s motel room against her testimony and accord her no credibility as to

1 this claim. *See State v. Watchman*, 2005-NMCA-125, ¶ 9, 138 N.M. 488, 122 P.3d
2 855.

3 {11} This evidence is sufficient to support a reasonable inference that K.T. was
4 exposed to methamphetamine during the time that she was under her father's
5 supervision. And because Defendant left K.T. in the care of K.T.'s father, whom
6 Defendant knew used illicit substances regularly, the evidence is sufficient for a
7 reasonable juror to conclude that, by leaving K.T. in the father's care, Defendant
8 caused or permitted K.T. to be exposed to methamphetamine in a location where
9 drugs were being regularly used, which amounted to a substantial and unjustifiable
10 risk of serious harm to the safety or health of K.T. Accordingly, we conclude that
11 sufficient evidence supports that Defendant's conduct resulted in K.T.'s death.

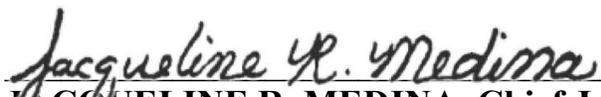
12 **CONCLUSION**

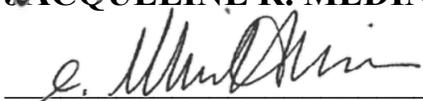
13 {12} We affirm Defendant's conviction for child abuse resulting in death (child
14 under twelve).

15 {13} **IT IS SO ORDERED.**

16 
17 **GERALD E. BACA, Judge**

18 **WE CONCUR:**

19 
20 **JACQUELINE R. MEDINA, Chief Judge**

21 
22 **J. MILES HANISEE, Judge**