

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

Court of Appeals of New Mexico

2 **STATE OF NEW MEXICO,**

Filed 3/30/2026 7:47 AM

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-41279

5 **CARLOS SANCHEZ-TRILLO,**

6 Defendant-Appellant.

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

8 **Drew D. Tatum, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Walter Hart, Assistant Solicitor General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 MJ Edge, Associate Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **MEMORANDUM OPINION**

19 **WRAY, Judge.**

20 {1} Defendant Carlos Sanchez-Trillo was convicted of bringing contraband into

21 jail, contrary to NMSA 1978, Section 30-22-14(B) (2013, amended 2024),¹ and

¹This statute was amended in 2024, and because the amendments do not impact the substantive issues on appeal, we refer to the 2024 version of the statute.

1 conspiracy to commit distribution of a controlled substance, contrary to NMSA
2 1978, Sections 30-31-22 (A)(2) (2011, amended 2021) and 30-28-2 (1979).
3 Defendant’s convictions arise from strips of Suboxone that law enforcement
4 discovered in two envelopes that were mailed to Defendant by a former inmate
5 acquaintance while Defendant was confined in jail, combined with several recorded
6 phone calls between Defendant and the former inmate acquaintance. We conclude
7 that the evidence did not support the conviction for bringing contraband into a jail
8 and therefore reverse that conviction. Otherwise, we affirm.

9 **DISCUSSION**

10 {2} Because this is a memorandum opinion and the parties are familiar with the
11 relevant facts, we move directly to our analysis. On appeal, Defendant argues that
12 (1) his double jeopardy rights were violated; (2) he was entitled to a jury instruction
13 on attempt to bring contraband into the jail; and (3) insufficient evidence supported
14 the conviction for bringing contraband into the confines of the jail. Before oral
15 argument, we asked the parties to additionally address whether sufficient evidence
16 supported Defendant’s conviction for conspiracy and whether the evidence
17 established all of the elements set forth in Section 30-22-14(B). *See State v. Jade G.*,
18 2007-NMSC-010, ¶ 24, 141 N.M. 284, 154 P.3d 659 (outlining the three exceptions
19 to the “general rule” that “propositions of law not raised in the trial court cannot be
20 considered sua sponte by the appellate court,” including when “it is necessary to do

1 so in order to protect the fundamental rights of [a] party” (internal quotation marks
2 and citations omitted)); *State v. Vallejos*, 2000-NMCA-075, ¶ 29, 129 N.M. 424, 9
3 P.3d 668 (determining that the sufficiency of the evidence “involves a question of
4 fundamental error or the fundamental rights of the defendant”).

5 {3} We first questioned whether the offense of conspiracy to distribute controlled
6 substances required the State to prove that Defendant had the intent to distribute
7 controlled substances beyond his own purchase and whether the evidence
8 established such an intent. “In order to be convicted of conspiracy, the defendant
9 must have the requisite intent to agree and the intent to commit the offense that is
10 the object of the conspiracy.” *State v. Trujillo*, 2002-NMSC-005, ¶ 62, 131 N.M.
11 709, 42 P.3d 814. In the context of conspiracy to traffic or distribute, based on the
12 authority provided by the parties at oral argument, New Mexico law suggests that
13 the buyer is required to share the seller’s intent to distribute controlled substances
14 beyond the purchase of drugs for the buyer’s own use. *Cf. State v. Rael*, 1999-
15 NMCA-068, ¶ 13, 127 N.M. 347, 981 P.2d 280 (noting in the context of racketeering
16 that “[a] buyer who seeks to obtain drugs for personal use normally does not share a
17 common purpose with a seller who seeks to distribute drugs for profit”); *State v.*
18 *Pinson*, 1995-NMCA-045, ¶ 7, 119 N.M. 752, 895 P.2d 274 (reasoning that the
19 crime of trafficking a controlled substance does not include “[p]urchasing or
20 receiving” among the prohibited acts). Federal law refers to this proposition as the

1 “buyer-seller” rule. *See United States v. Ivy*, 83 F.3d 1266, 1285-86 (10th Cir. 1996)
2 (explaining that “the purpose of the buyer-seller rule is to separate consumers, who
3 do not plan to redistribute drugs for profit, from street-level, mid-level, and other
4 distributors, who do intend to redistribute drugs for profit, thereby furthering the
5 objective of the conspiracy”). We need not, however, adopt the “buyer-seller” rule.

6 {4} Here, the evidence established the requisite intent regardless of whether we
7 apply the buyer-seller rule. The parties do not dispute on appeal that Defendant had
8 the requisite intent to agree with the seller to purchase the Suboxone. Further review
9 of the first jail call also reveals sufficient evidence from which the jury could have
10 inferred that Defendant’s agreement to distribute controlled substances extended
11 beyond his own purchase with the involvement of a third inmate. *See State v.*
12 *Trujillo*, 2012-NMCA-092, ¶ 5, 287 P.3d 344 (“The relevant question is whether,
13 after viewing the evidence in the light most favorable to the prosecution, *any* rational
14 trier of fact could have found the essential elements of the crime beyond a reasonable
15 doubt.” (internal quotation marks and citation omitted)). Accordingly, we have
16 satisfied ourselves that a reasonable jury could have found sufficient evidence of the
17 elements of conspiracy to distribute. *See State v. Bahney*, 2012-NMCA-039, ¶ 25,
18 274 P.3d 134 (“[O]ur review of the trial record must defer to the jury’s fundamental
19 role as fact[-]finder yet satisfy our autonomous responsibility to ensure that jury
20 decisions are supportable by evidence in the record, rather than mere guess or

1 conjecture.” (omission, internal quotation marks, and citation omitted)). As we
2 explain, however, we reverse Defendant’s conviction for bringing contraband into a
3 jail for lack of sufficient evidence.

4 {5} It is this Court’s duty to ensure that “a rational jury *could* have found beyond
5 a reasonable doubt the essential facts required for a conviction.” *State v. Sanders*,
6 1994-NMSC-043, ¶ 12, 117 N.M. 452, 872 P.2d 870 (internal quotation marks and
7 citation omitted). We generally measure the sufficiency of the evidence against the
8 instructions given to the jury. *State v. Sivils*, 2023-NMCA-080, ¶ 28, 538 P.3d 126.
9 In the present case, the jury was instructed as follows:

10 For you to find . . . [D]efendant guilty of [b]ringing contraband
11 into a jail, as charged in Count 2, the State must prove to your
12 satisfaction beyond a reasonable doubt each of the following elements
13 of the crime:

- 14 1. [D]efendant knowingly and voluntarily *carried*,
15 *transferred or deposited* [S]uboxone (buprenorphine) into the jail;
- 16 2. This happened in New Mexico on or about the 19th day of
17 December, 2020 through the 22nd day of December 2020.

18 Construing the evidence “in a light most favorable to the verdict,” the evidence did
19 not establish that Defendant “carried, transferred, or deposited” contraband into the
20 jail. *See id.* ¶ 27.

21 {6} The statutory language indicates that the evidence must show that Defendant
22 acted in one of the listed ways. *See Carry, Black’s Law Dictionary* (12th ed. 2024)
23 (defining “carry” as “[t]o convey or transport”); *Deposit, Black’s Law Dictionary*

1 (12th ed. 2024) (defining “deposit” as “[t]he act of giving money or other property
2 to another who promises to preserve it or to use it and return it in kind”); *Transfer*,
3 *Black’s Law Dictionary* (12th ed. 2024) (defining “transfer” as “[a] conveyance of
4 property or title from one person to another”). The evidence demonstrated that
5 another person mailed contraband to the jail for Defendant, but the mail was
6 intercepted by the warden before Defendant received it. No evidence established that
7 Defendant, himself, carried, transferred, or deposited the contraband into the jail—
8 a conclusion that is reinforced by the State’s argument during closing that the
9 criminal act was completed because Defendant “caused it to be deposited.” The only
10 act that the State proved Defendant committed in this regard was agreeing to receive
11 the contraband at the jail.

12 {7} The State maintained at oral argument that Defendant’s request to receive the
13 contraband in the jail was sufficient to establish that the contraband was carried by
14 an “innocent agent” or that the jury could have convicted Defendant based on a
15 theory of accessory liability. For support, the State cited *State v. Faggard*, 1918-
16 NMSC-133, 25 N.M. 76, 177 P. 748; *State v. Archuleta*, 1970-NMCA-131, 82 N.M.
17 378, 482 P.2d 242; and *State v. Curry*, 1988-NMCA-031, 107 N.M. 133, 753 P.2d
18 1321. These theories suggest that a defendant might be convicted of the charged
19 crime even though another person’s act completed the crime. *See Faggard*, 1918-
20 NMSC-133, ¶ 4; *Archuleta*, 1970-NMCA-131, ¶¶ 10, 12; *see also State v. Carrasco*,

1 1997-NMSC-047, ¶ 6, 124 N.M. 64, 946 P.2d 1075 (“In New Mexico, ‘[a] person
2 may be charged with and convicted of the crime as an accessory if [that person]
3 procures, counsels, aids or abets in its commission and although [that person] did
4 not directly commit the crime and although the principal who directly committed
5 such crime has not been prosecuted or convicted.’” (quoting NMSA 1978, § 30-1-
6 13 (1972))). The State argues that the jury could have reasonably inferred the facts
7 necessary to support one of these theories.

8 {8} But again, our task is to determine whether the evidence supported the verdict
9 based on the instruction received by the jury. *See Sivils*, 2023-NMCA-080, ¶ 28. The
10 jury was not instructed on an innocent agent theory or accomplice liability. While
11 the State argued in closing that the elements were satisfied because Defendant
12 “caused” the contraband to be deposited in the jail, the jury was instructed that
13 *Defendant* “knowingly and voluntarily carried, transferred, or deposited [S]uboxone
14 (buprenorphine) into the jail.” The jury did not receive an instruction on the elements
15 of accessory liability. *See Carrasco*, 1997-NMSC-047, ¶ 9 (“In New Mexico, a jury
16 must find a community of purpose for *each* crime of the principal.”); UJI 14-2822
17 NMRA (setting forth the elements of accessory liability that the State must prove
18 “beyond a reasonable doubt”). Nor was the jury instructed that it could impute the
19 act of carrying, transferring, or depositing the contraband to Defendant under an
20 “innocent agent” theory. *See Maxey v. United States*, 30 App. D.C. 63, 75 (1907)

1 (acknowledging that an act performed by an innocent agent is the act of the principle
2 if the jury finds that the principle commanded or procured the act). Based on the
3 instruction that was given, the jury had to find that Defendant “carried, transferred,
4 or deposited” the contraband. As we have explained, no evidence supported that
5 conclusion.

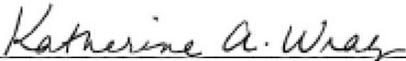
6 {9} We observe, and the parties appear to agree, that the jury instruction for this
7 charge was erroneous. *Compare* § 30-22-14(A) (setting forth the elements of
8 bringing contraband onto the grounds of a prison), *with* § 30-22-14(B) (setting forth
9 the elements of bringing contraband into the confines of a jail). We need not,
10 however, determine whether fundamental error resulted. Had we considered the jury
11 instruction and determined that an error resulted from the instruction that justified a
12 new trial, the next step would have been to consider whether double jeopardy
13 prevented retrial. *See State v. Rosaire*, 1996-NMCA-115, ¶ 20, 123 N.M. 250, 939
14 P.2d 597. To do that, we would have measured the sufficiency of the evidence
15 against the erroneous instruction—as we have already done in the present case. *See*
16 *id.* And as we have explained, based on the instruction given to the jury, the evidence
17 was insufficient.

18 **CONCLUSION**

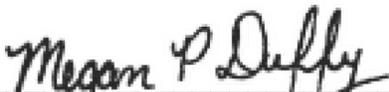
19 {10} We reverse Defendant’s conviction for bringing contraband into a jail. We
20 remand for the conviction to be vacated and for resentencing. Because the remaining

1 issues on appeal relate to the reversed conviction, we do not address those arguments
2 and otherwise affirm.

3 {11} **IT IS SO ORDERED.**

4 
5 **KATHERINE A. WRAY, Judge**

6 **WE CONCUR:**

7 
8 **MEGAN P. DUFFY, Judge**

9 
10 **SHAMMARA H. HENDERSON, Judge**