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

Court of Appeals of New Mexico
Filed 4/14/2026 12:18 PM

2 **STATE OF NEW MEXICO,,**

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-42908

5 **MAGNOLIA PRINCE,**

6 Defendant-Appellant.

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

8 **Donna J. Mowrer, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Kathleen T. Baldrige, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **ATTREP, Judge.**

18 {1} Defendant appeals her conviction, after a jury trial, of aggravated assault with
19 a deadly weapon, challenging the sufficiency of the evidence. This Court issued a
20 notice of proposed summary affirmance. Defendant has filed a memorandum in
21 opposition with this Court, which we have duly considered. Remaining unpersuaded,
22 we affirm.

1 {2} In her memorandum in opposition, Defendant continues to challenge the
2 sufficiency of the evidence to support her conviction, primarily contending that the
3 State failed to rebut her testimony that her boyfriend grabbed the steering wheel and
4 directed the truck towards Victim. [MIO 9] Defendant contends that in light of such
5 testimony, the jury would have needed to impermissibly infer that she intended to
6 hit Victim with her truck by relying on surmise and conjecture. [MIO 6] As we
7 proposed in the calendar notice [CN 3], the jury could have reasonably inferred that
8 Defendant remained in control of the truck and intended to strike Victim from the
9 testimony introduced at trial. *See State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128
10 N.M. 711, 998 P.2d 176 (“In reviewing the sufficiency of the evidence, we must
11 view the evidence in the light most favorable to the guilty verdict, indulging all
12 reasonable inferences and resolving all conflicts in the evidence in favor of the
13 verdict.”); *State v. Slade*, 2014-NMCA-088, ¶ 14, 331 P.3d 930 (“A reasonable
14 inference is a conclusion arrived at by a process of reasoning which is a rational and
15 logical deduction from facts admitted or established by the evidence.” (alterations,
16 internal quotation marks, and citation omitted)).

17 {3} In this case, the jury heard that Defendant was in the driver’s seat and was in
18 full control of the truck immediately before and after it was directed at Victim. [MIO
19 2, 4-5] The jury also heard that Victim was dating Defendant’s boyfriend and had
20 struck Defendant’s truck windshield and window with a hammer earlier that day.

1 [MIO 4] From these facts, the jury could reasonably infer that Defendant intended
2 to point the moving truck at Victim and commit the crime of battery. *See Slade*,
3 2014-NMCA-088, ¶ 14. Though Defendant testified otherwise, it was within the
4 jury’s purview as fact-finder to determine whether Defendant’s testimony was
5 credible and to weigh the other evidence along with her testimony. *See State v.*
6 *Garcia*, 2011-NMSC-003, ¶ 5, 149 N.M. 185, 246 P.3d 1057 (“New Mexico
7 appellate courts will not invade the jury’s province as fact-finder by second-guessing
8 the jury’s decision concerning the credibility of witnesses, reweighing the evidence,
9 or substituting its judgment for that of the jury.” (alterations, internal quotation
10 marks, and citation omitted)); *see also State v. Rojo*, 1999-NMSC-001, ¶ 19, 126
11 N.M. 438, 971 P.2d 829 (“Contrary evidence supporting acquittal does not provide
12 a basis for reversal because the jury is free to reject [the d]efendant’s version of the
13 facts.”). Insofar as Defendant contends that the State did not introduce direct
14 testimony of her mental state [MIO 8], circumstantial evidence is permissible to
15 prove intent. *See State v. Durant*, 2000-NMCA-066, ¶ 15, 129 N.M. 345, 7 P.3d
16 495 (“Intent can rarely be proved directly and often is proved by circumstantial
17 evidence.”). Accordingly, the evidence presented at trial is sufficient to support
18 Defendant’s conviction for aggravated assault with a deadly weapon. *See id.*

19 {4} For the foregoing reasons, we affirm.

1 {5} IT IS SO ORDERED.

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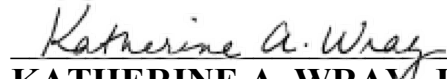

JENNIFER L. ATTREP, Judge

4 WE CONCUR:

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6


J. MILES HANISEE, Judge

7
8


KATHERINE A. WRAY, Judge