

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

2 **STATE OF NEW MEXICO,**

Court of Appeals of New Mexico
Filed 4/20/2026 10:24 AM

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-43003

5 **DION CHAVEZ,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8 **Stephen Wayne, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Stalter Law LLC

12 Kenneth H. Stalter

13 Albuquerque, NM

14 for Appellant

15 **MEMORANDUM OPINION**

16 **WRAY, Judge.**

17 {1} This matter was submitted to the Court on the brief in chief pursuant to the
18 Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and
19 Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No.
20 2022-002, effective November 1, 2022. Having considered the brief in chief,
21 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 the district court’s judgment and sentence, convicting
4 him of two counts of aggravated assault with a deadly weapon. Defendant challenges
5 the sufficiency of the evidence to support his convictions [BIC 22-37] and contends
6 that he was denied the effective assistance of counsel [BIC 37-42].

7 **Sufficiency of the Evidence**

8 {3} When assessing the sufficiency of the evidence to support a conviction, “we
9 view the evidence in the light most favorable to the guilty verdict, indulging all
10 reasonable inferences and resolving all conflicts in the evidence in favor of the
11 verdict.” *State v. Samora*, 2016-NMSC-031, ¶ 34, 387 P.3d 230 (internal quotation
12 marks and citation omitted). “We then determine whether substantial evidence of
13 either a direct or circumstantial nature exists to support a verdict of guilt beyond a
14 reasonable doubt with respect to every element essential to a conviction.” *State v.*
15 *Garcia*, 2016-NMSC-034, ¶ 15, 384 P.3d 1076 (internal quotation marks and
16 citation omitted). “Substantial evidence is relevant evidence that a reasonable mind
17 might accept as adequate to support a conclusion.” *State v. Largo*, 2012-NMSC-015,
18 ¶ 30, 278 P.3d 532 (internal quotation marks and citation omitted).

19 {4} Defendant argues that the evidence was inadequate to identify him as the
20 perpetrator of the aggravated assaults with a deadly weapon because the eyewitness

1 testimony was unreliable and inaccurate, and there was no physical evidence
2 connecting Defendant to the alleged crimes. [BIC 23-24] With respect to the
3 identification evidence, Defendant contends that it was getting dark and difficult to
4 make accurate observations when the incident occurred, and there were
5 discrepancies between the descriptions given by the victims. [Id.] Defendant mostly
6 focuses on the inaccurate descriptions of his tattoo of a Zia symbol [BIC 24-25] and
7 his vehicle [BIC 27-28].

8 {5} It is for the jury, however, as the finder of fact to weigh the inconsistencies in
9 the evidence, resolve the conflicts in the testimony, and determine the credibility of
10 the witnesses. *See State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d
11 482 (stating that it is for the fact-finder to resolve conflicts in the evidence and
12 determine where the weight and credibility lie). On appeal, we do not reweigh the
13 evidence, and we may not substitute our judgment for that of the fact-finder, as long
14 as there is sufficient evidence to support the verdict. *State v. Griffin*, 1993-NMSC-
15 071, ¶ 17, 116 N.M. 689, 866 P.2d 1156. Defendant’s attacks on the State’s evidence
16 would require us to engage in the prohibited practice of weighing the evidence by
17 considering “the degree to which evidence proves or disproves a fact.” *See State v.*
18 *Valencia*, ___NMSC-___, ¶ 17, ___ P.3d ___, (S-1-SC-40141, July 14, 2025)
19 “Testimony by a witness whom the fact[-]finder has believed may be rejected by an
20 appellate court only if there is a physical impossibility that the statements are true or

1 the falsity of the statement is apparent without resort to inferences or deductions.”
2 *State v. Hamilton*, 2000-NMCA-063, ¶ 20, 129 N.M. 321, 6 P.3d 1043 (internal
3 quotation marks and citation omitted). Instead, we view the evidence in the light
4 most favorable to the verdict, ignore evidence and inferences that might support a
5 different result, and then consider whether a reasonable mind could accept the
6 relevant evidence as adequate to support the verdict. *See Samora*, 2016-NMSC-031,
7 ¶ 34; *see also Largo*, 2012-NMSC-015, ¶ 30 (explaining that in reviewing the
8 sufficiency of the evidence, we disregard all evidence and inferences that support a
9 result that is different than the verdict); *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126
10 N.M. 438, 971 P.2d 829 (same).

11 {6} The evidence in the current case showed that one of the victims in this case
12 was Gary Coleman, an employee of the San Juan County Adult Detention Center.
13 [BIC 3] The other victim was Shelbee Romine, a former employee of the San Juan
14 County Detention Center and fiancée of Mr. Coleman. [BIC 6] Although the victims’
15 identifications of Defendant contained inconsistencies and inaccuracies, the victims’
16 descriptions of the perpetrator accurately identified Defendant as a Hispanic male
17 with a goatee, who had a tattoo under his left eye and was driving a truck. [BIC 5, 7,
18 25, 27] Both victims also described the perpetrator as wearing a baseball hat and
19 pointing a gun at them, and Mr. Coleman testified that the perpetrator asked about
20 someone called “Mousey.” [BIC 5] The victims testified that the encounter lasted

1 between two-to-five or five-to-seven minutes. [BIC 4, 7] Both victims explained that
2 at the time of the incident they recognized the perpetrator as someone they had seen
3 before but could not recall the name. [BIC 6, 8] Ms. Romine testified that, after the
4 incident, she saw which driveway the perpetrator's truck pulled into, knew who lived
5 in the neighborhood, and was able to search Facebook to identify the perpetrator.
6 [BIC 8] Ms. Romine identified Defendant on Facebook as the one who "looks
7 exactly like the person that pointed the gun at me in the truck." [Id.] Mr. Coleman
8 also identified Defendant by searching on Facebook. [BIC 30]

9 {7} After the victims contacted police to identify Defendant as the perpetrator, a
10 SWAT team executed a search warrant of Defendant's residence and watched as
11 multiple occupants of the home exited the residence as instructed. [BIC 12]
12 According to the testimony, Defendant, however, did not exit the home for
13 approximately twenty-to-thirty minutes and did so by crawling on his hands and
14 knees from the backdoor, which an officer characterized as "a pretty obvious attempt
15 to escape." [BIC 12-13] Officers did not find the kind of gun that the victims
16 described, but they found "multiple plastic look-alike firearms in each bedroom"
17 [BIC 11-12], a bolt-action rifle or muzzle-loader-type weapon and other firearm
18 accessories [BIC 15], and .40 and .45 caliber cartridges, loaded magazines, and other
19 ammunition in Defendant's bedroom [BIC 14, 20]. Also, Defendant was later
20 interviewed by police and admitted that he knew "Mousey," the person about whom

1 the perpetrator had asked the victims during the incident. [BIC 21] Lastly, each of
2 the victims made an in-court identification of Defendant as the perpetrator who had
3 pointed the gun at them. [BIC 6, 8]

4 {8} We conclude that the evidence was sufficient to identify Defendant as the
5 perpetrator of the aggravated assaults. The evidence shows that the victims gave the
6 same general description of the perpetrator and adequately observed the perpetrator
7 in a manner that would make an identification possible. The victims also expressed
8 confidence in their identification of Defendant based on their own investigation
9 within twenty-four hours of the incident. As we routinely state, “[T]he testimony of
10 a single witness may legally suffice as evidence to support a jury’s verdict.”
11 *Hamilton*, 2000-NMCA-063, ¶ 20 (internal quotation marks and citation omitted).
12 Also, Defendant’s long delay in leaving the residence upon demands from the
13 SWAT team and his attempted escape may be considered evidence of consciousness
14 of guilt. *See State v. Jacobs*, 2000-NMSC-026, ¶ 15, 129 N.M. 448, 10 P.3d 127
15 (recognizing evidence of an escape, planned flight, or attempted flight is admissible
16 evidence of consciousness of guilt), *overruled on other grounds by State v. Martinez*,
17 2021-NMSC-002, ¶ 72, 478 P.3d 880. Additionally, although police did not find a
18 firearm that matched the victims’ description, the State found and presented
19 evidence indicating that Defendant possessed firearms. Finally, Defendant conceded
20 that he knew the person called “Mousey,” whom the perpetrator asked victims about

1 by gunpoint. In combination, this direct and circumstantial evidence is adequate to
2 support the jury’s finding that Defendant was the perpetrator of the aggravated
3 assault against the victims. *See Garcia*, 2016-NMSC-034, ¶ 15.

4 {9} To the extent Defendant contends that the identification procedure was
5 unnecessarily suggestive or inherently unreliable [BIC 29-30], we are not persuaded
6 that Defendant demonstrates the evidence was inadequate. The case law and due
7 process principles upon which Defendant bases this contention involve law
8 enforcement obligations and police-arranged identification procedure, not
9 identifications initiated by victims and eyewitnesses based on their own private
10 investigations. *See Martinez*, 2021-NMSC-002, ¶¶ 2-3, 43-48, 61, 79, 83, 85-86; *see*
11 *also* NMSA 1978, §§ 29-3B-1 to -4 (2019) (requiring law enforcement agencies
12 conducting eyewitness identifications to adopt procedures that are proven to enhance
13 the reliability of the identifications). Defendant does not explain how or why the
14 relevant case law and principles would apply to the investigations and identifications
15 devised and executed by the victims and eyewitnesses themselves. *See State v.*
16 *Ramirez*, 2018-NMSC-003, ¶ 33, 409 P.3d 902 (observing that “[i]t is only when
17 law enforcement are the source of the taint that due process concerns arise”). In
18 addition, the remedy for Defendant’s challenge to the identification evidence would
19 be exclusion, not reversal of a conviction based on the sufficiency of the evidence.
20 *See Martinez*, 2021-NMSC-002, ¶¶ 79-82 (adopting an exclusionary rule for law

1 enforcement’s use of unnecessarily suggestive pretrial identification procedures).
2 This is because when reviewing the sufficiency of the evidence after identifying an
3 evidentiary error, we consider all the evidence presented to determine whether retrial
4 is permitted, even evidence that may have been wrongly admitted. *See State v. Post*,
5 1989-NMCA-090, ¶ 22, 109 N.M. 177, 783 P.2d 487.

6 {10} Based on the foregoing analysis, we hold that the evidence was sufficient to
7 support Defendant’s convictions for aggravated assault with a deadly weapon.

8 **Ineffective Assistance of Counsel**

9 {11} Finally, Defendant argues that he was denied the effective assistance of
10 counsel based on the following: the failure to object to the admission of the State’s
11 Exhibits 1-3 and the victims’ testimony that identified Defendant as the perpetrator
12 based on their social media search; and the failure to call witnesses on Defendant’s
13 behalf. [BIC 37-42] To establish a prima facie case of ineffective assistance of
14 counsel, a defendant must show (1) “counsel’s performance was deficient in that it
15 fell below an objective standard of reasonableness”; and (2) the “[d]efendant
16 suffered prejudice in that there is a reasonable probability that, but for counsel’s
17 unprofessional errors, the result of the proceeding would have been different.” *State*
18 *v. Aker*, 2005-NMCA-063, ¶ 34, 137 N.M. 561, 113 P.3d 384 (internal quotation
19 marks and citation omitted). “When an ineffective assistance claim is first raised on
20 direct appeal, we evaluate the facts that are part of the record.” *State v. Roybal*, 2002-

1 NMSC-027, ¶ 19, 132 N.M. 657, 54 P.3d 61. “If facts necessary to a full
2 determination are not part of the record, an ineffective assistance claim is more
3 properly brought through a habeas corpus petition, although an appellate court may
4 remand a case for an evidentiary hearing if the defendant makes a prima facie case
5 of ineffective assistance.” *Id.*

6 {12} With respect to the State’s Exhibits 1-3, which consisted of photographs taken
7 by an off-duty detective depicting Defendant making furtive movements in a grocery
8 store parking lot over two hours before the incident at issue, Defendant complains
9 that these exhibits were used to create an improper inference that Defendant was
10 involved in the incident. [BIC 39-40] Defendant’s description of the photographs
11 and the testimony of the off-duty detective suggests they were presented to show
12 similarities between the photographs of Defendant and the victims’ description of
13 the perpetrator on the day of the incident. [BIC 10-11, 39-40] Defendant does not:
14 identify which rules of evidence should have formed the basis for his attorney’s
15 objection to the photographs; explain why that objection would have been
16 successful; or demonstrate how the exclusion of the photographs would have
17 changed the outcome of the case. Where a defendant does not elaborate on the
18 allegations of error and the necessary facts and arguments are not sufficiently
19 developed for our review and consideration, that defendant does not establish a
20 prima facie case of ineffective assistance of counsel that would merit remand on

1 direct appeal. *See State v. Allen*, 2014-NMCA-047, ¶¶ 18-19, 323 P.3d 925.

2 Accordingly, we hold that Defendant has not demonstrated a prima facie case that
3 his counsel was ineffective for failing to object to the photographic evidence. *See id.*
4 ¶ 19.

5 {13} With respect to Defendant’s claim that his counsel was ineffective for failing
6 to challenge the social media identification process [BIC 40, 42], we are not
7 persuaded for similar reasons. Defendant does not explain why the victims’ self-
8 initiated investigation and identification process would be subject to the same
9 analysis as the identification procedures instituted by law enforcement. Here, the
10 victims followed their own line of investigation having recognized the perpetrator,
11 found the truck used by the perpetrator, were familiar with the neighborhood of the
12 residence where the truck was located, searched on Facebook for people in the
13 neighborhood of the residence, found an image of Defendant that the victims
14 identified as the perpetrator within twenty-four hours of the incident, and brought
15 their findings to police. [BIC 6, 8, 29-30] As the record exists on direct appeal,
16 Defendant does not demonstrate that it was objectively unreasonable to fail to raise
17 a challenge to the identification or that such a challenge would have been successful.
18 *See id.* ¶¶ 18-19; *Aker*, 2005-NMCA-063, ¶ 34. Thus, we conclude that Defendant
19 has not established a prima facie claim of ineffective assistance of counsel. *See id.* ¶
20 19.

1 {14} Lastly, we are not persuaded by Defendant’s claim that his counsel was
2 ineffective for the failure to call witnesses. [BIC 40-42] Defendant asserts that an
3 individual who was with Defendant at the grocery store two hours before the incident
4 could have testified for the defense [BIC 40] and “might have offered a different
5 perspective on the events in question.” [BIC 42] Defendant does not explain how the
6 record demonstrates that there was a witness available who could have provided a
7 defense. Nor does Defendant state how the record shows the content of that potential
8 testimony. Thus, Defendant has not established a prima facie case of ineffective
9 assistance of counsel. *See id.* ¶¶ 18-19. If Defendant wishes to pursue his claims of
10 ineffective assistance of counsel, he should do so in habeas proceedings. *Id.* ¶ 20.

11 {15} For the reasons provided above, we affirm Defendant’s convictions for
12 aggravated assault with a deadly weapon.

1 {16} IT IS SO ORDERED.

2 *Katherine A. Wray*
3 _____
4 KATHERINE A. WRAY, Judge

4 WE CONCUR:

5 *Megan P. Duffy*
6 _____
7 MEGAN P. DUFFY, Judge

7 *SHAMMARA H. HENDERSON*
8 _____
9 SHAMMARA H. HENDERSON, Judge