

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

2 **STATE OF NEW MEXICO,**

Court of Appeals of New Mexico
Filed 4/8/2026 9:50 AM

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-41235

5 **ESTEBAN CERECERES ALVAREZ,**

6 Defendant-Appellant.

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

8 **Lee A. Kirksey, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Tyler Sciara, Assistant Solicitor General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 Mary Barket, Assistant Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **MEMORANDUM OPINION**

19 **WRAY, Judge.**

20 {1} Defendant appeals his convictions after a bench trial for aggravated battery

21 (great bodily harm), NMSA 1978, § 30-3-5(C) (1969); embezzlement (over \$500),

1 NMSA 1978, § 30-16-8(A), (D) (2007, amended 2025);¹ and bribery or intimidation
2 of a witness, NMSA 1978, § 30-24-3 (1997). Defendant challenges the sufficiency
3 of the evidence to support each of these convictions and argues that (1) for
4 aggravated battery (great bodily harm), the evidence did not establish that Victim’s
5 injuries rose to the level of great bodily harm; (2) for embezzlement, the State did
6 not establish that Defendant converted the car for his own use, had the requisite
7 fraudulent intent, or that the value of the car exceeded \$500; and (3) for bribery or
8 intimidation of a witness, that Victim did not credibly testify. We affirm.

9 **DISCUSSION**

10 {2} Because this is a memorandum opinion, prepared solely for the benefit of the
11 parties, we omit a recitation of the background and refer to those record facts that
12 are necessary to our review of whether the evidence was sufficient to sustain
13 Defendant’s convictions. “In reviewing the sufficiency of evidence used to support
14 a conviction, we resolve all disputed facts in favor of the [s]tate, indulge all
15 reasonable inferences in support of the verdict, and disregard all evidence and
16 inferences to the contrary.” *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971
17 P.2d 829. We do not substitute our judgment for that of the jury in deciding whether
18 the State met its burden beyond a reasonable doubt but instead scrutinize the

¹ Because the 2025 amendment to Section 30-16-8 does not impact our analysis, we refer to the current statute.

1 evidence “to ensure that, indeed, a rational jury *could* have found beyond a
2 reasonable doubt the essential facts required for a conviction.” *See State v. Garcia*,
3 1992-NMSC-048, ¶ 27, 114 N.M. 269, 837 P.2d 862. We consider each conviction
4 in turn.

5 **I. Aggravated Battery Involving Great Bodily Harm**

6 {3} Generally, “[a]ggravated battery consists of the unlawful touching or
7 application of force to the person of another with intent to injure that person or
8 another.” Section 30-3-5(A). The manner of aggravated battery determines the level
9 of the penalty associated with the offense. A violation of Section 30-3-5(B) is a
10 misdemeanor and results from an aggravated battery that “is not likely to cause death
11 or great bodily harm, but does cause a painful temporary disfigurement or temporary
12 loss or impairment of the functions of any member or organ of the body.” Defendant
13 was convicted under Section 30-3-5(C), which elevates the penalty if a person
14 “commits aggravated battery inflicting great bodily harm or does so with a deadly
15 weapon or does so in any manner whereby great bodily harm or death can be
16 inflicted.” As the parties note, UJI 14-131 NMRA defines “great bodily harm” as
17 “an injury to a person which creates a high probability of death or results in serious
18 disfigurement or results in loss of any member or organ of the body or results in
19 permanent or prolonged impairment of the use of any member or organ of the body.”
20 Defendant contends that the evidence only showed that Victim’s injuries were

1 temporary and not inflicted in a manner likely to cause death or great bodily harm.

2 We disagree.

3 {4} The district court found that Defendant struck Victim’s “face, chin, ear, and
4 arm repeatedly with a closed fist” and that these acts “created a high probability of
5 death.” Victim testified that Defendant repeatedly punched her head with a closed
6 fist while he was driving, and Victim described the car as “swerving from side to
7 side, just going everywhere.” Victim’s eye became so swollen that she had to turn
8 her head to see. When Victim was able to get away from the car, her head felt
9 “bouncy and heavy,” she was “a little bit” disoriented, and eventually, she tripped
10 and had no memory until she was discovered by emergency workers. Law
11 enforcement found Victim unconscious on the roadway the following morning, and
12 they described her as “severely beaten” and “semiconscious.” Her face was
13 “extremely swollen,” with a laceration and “a lot of blood running down.” The
14 district court viewed photographs that depicted her injuries. Victim described
15 ongoing pain and difficulty moving for a week to a week and a half, which caused
16 her to miss work for that time.

17 {5} Defendant suggests that the evidence of Victim’s injuries did not cross the
18 legal line from “painful temporary disfigurement or temporary loss or impairment,”
19 *see* § 30-3-5(B), to great bodily harm, *see* § 30-3-5(C), and argues that Victim’s
20 testimony was otherwise inconsistent and that the State did not offer medical

1 evidence to establish the seriousness of the injuries. Defendant encourages this Court
2 not to “shy away” from “providing lower courts guidance” about the different
3 evidentiary requirements for Section 30-3-5(B) and (C). We decline the invitation to
4 provide further guidance in the present case. New Mexico law makes clear that the
5 fact-finder decides the question of great bodily harm, determines the credibility and
6 weight of the evidence, and may draw reasonable inferences about the severity of
7 the injuries. *See State v. Cordova*, 2016-NMCA-019, ¶ 19, 366 P.3d 270 (concluding
8 that “it was for the jury to determine whether the impairment was for a sufficiently
9 extended period of time so as to meet” the definition of great bodily harm); *State v.*
10 *Garcia*, 2011-NMSC-003, ¶ 5, 149 N.M. 185, 246 P.3d 1057 (“New Mexico
11 appellate courts will not invade the jury’s province as fact-finder by second-guessing
12 the jury’s decision concerning the credibility of witnesses, reweighing the evidence,
13 or substituting its judgment for that of the jury.” (alterations, internal quotation
14 marks, and citation omitted)); *State v. Bell*, 1977-NMSC-013, ¶ 15, 90 N.M. 134,
15 560 P.2d 925 (“[T]he law does not require that ‘great bodily harm’ be proved
16 exclusively by medical testimony” and “[t]he jury is entitled to rely upon rational
17 inferences deducible from the evidence.”).

18 {6} Viewing the evidence in the light most favorable to the verdict, a reasonable
19 fact-finder could conclude that Victim suffered great bodily harm. *See Cordova*,
20 2016-NMCA-019, ¶ 19. The fact-finder in the present case viewed the photographs

1 of Victim’s injuries and heard the testimony about how the injuries looked, felt, and
2 impacted Victim afterward. At the least, the evidence supported a conclusion that
3 when Defendant repeatedly hit Victim with a closed fist while driving a vehicle, he
4 committed aggravated battery “in any manner whereby great bodily harm or death
5 can be inflicted.” *See* § 30-3-5(C); *State v. Pettigrew*, 1993-NMCA-095, ¶ 7, 116
6 N.M. 135, 860 P.2d 777 (“Section 30-3-5(C) requires only that great bodily harm
7 could result, not that it must result.”); *see also Garcia*, 2011-NMSC-003, ¶ 5 (“So
8 long as a rational jury *could* have found beyond a reasonable doubt the essential facts
9 required for a conviction, we will not upset a jury’s conclusions.” (internal quotation
10 marks and citation omitted)).

11 **II. Embezzlement**

12 {7} To establish embezzlement in the present case, the State was required to prove
13 that Defendant was entrusted with Victim’s car that had a market value greater than
14 \$500, converted the car for his own use, and fraudulently intended to deprive Victim
15 of the car. *See* UJI 14-1641 NMRA. The evidence showed that Victim agreed to give
16 Defendant a ride to a friend’s house and allowed him to drive. Victim expected to
17 pick up Defendant, drop him off at his friend’s house, and then go home. After the
18 aggravated battery, Defendant drove the car to another person’s house, took the keys,
19 and went into the house. Defendant argues that the evidence did not support a finding
20 that he converted Victim’s car for his use, that he had the requisite fraudulent intent,

1 or that the market value of the car was greater than \$500. We consider each
2 argument.

3 {8} A reasonable fact-finder could conclude that Defendant converted Victim’s
4 car to his own use. “Conversion occurs when a person who has been entrusted with
5 another’s property treats the property as [their] own and uses it for [their] own
6 purpose.” *State v. Curry*, 2002-NMCA-092, ¶ 10, 132 N.M. 602, 52 P.3d 974.
7 Defendant contends that Victim left the car behind and that Defendant’s intentions
8 thereafter regarding the car were not clear. The evidence, however, showed that
9 Victim’s car was later found with some of Defendant’s belongings inside, and it
10 appeared as if he had been using the car as his own. Defendant had possession of the
11 car keys. From this evidence and Victim’s testimony, the fact-finder could
12 reasonably infer that Defendant’s use of the car was other than what Victim had
13 authorized. *See State v. Archie*, 1997-NMCA-058, ¶ 9, 123 N.M. 503, 943 P.2d 537
14 (“The statutory reference that the wrongdoer’s conversion must be to [their] own use
15 is more a reference to a use other than that authorized by the owner.” (internal
16 quotation marks omitted)); *State v. Bankert*, 1994-NMSC-052, ¶ 17, 117 N.M. 614,
17 875 P.2d 370 (“A conviction will be upheld if based upon a logical inference from
18 circumstantial evidence.”).

19 {9} The evidence also supported the fraudulent intent element. “Fraudulent intent
20 is defined as the intent to cheat or deceive and may be inferred by reasonable

1 inferences and circumstantial evidence.” *Curry*, 2002-NMCA-092, ¶ 11. Defendant
2 argues that the State provided no evidence that Victim did not agree for him to take
3 the car and asserts both that Victim left the car behind and “there were legitimate
4 barriers to him or anyone returning her car to her at that time.” Victim testified,
5 however, that although it was common for Defendant to drive her car when they
6 were together, he had never kept her car after they parted. After hitting her
7 repeatedly, Defendant took the keys and left Victim in the car. When he was gone,
8 Victim “took off running.” Victim testified that she did not give Defendant
9 permission to take the car. From this evidence, the fact-finder could reasonably infer
10 that Defendant knew that when Victim left the car behind, she did not intend to give
11 him permission to keep or continue to use it.

12 {10} Last, the evidence was sufficient to establish that the value of the car exceeded
13 \$500. Defendant maintains that the amount that Victim paid for the car did not
14 establish its value because Victim bought the car a year before and the car had
15 “issues.” This argument appears to rely on the investigator’s testimony that Victim
16 had reported that the car was older, it was “not the cleanest,” one door did not open
17 easily, and the tint was not “the best.” Regardless, Victim testified that she bought
18 the car the year before the incident for \$2200, it was a 2007 make, and “it functioned
19 good.” From the testimony of both witnesses, the fact-finder could reasonably infer
20 that the present market value of the car was more than \$500. *See State v. Barr*, 1999-

1 NMCA-081, ¶ 30, 127 N.M. 504, 984 P.2d 185 (permitting an inference of market
2 value from the purchase price together with the age and condition of the goods).

3 **III. Bribery or Intimidation of a Witness**

4 {11} To establish bribery or intimidation of a witness, the State was required to
5 prove that Defendant knowingly “intimidate[ed] or threaten[ed] any witness or
6 person likely to become a witness in a judicial, administrative, legislative or other
7 official cause or proceeding for the purpose of preventing such individual from
8 testifying to any fact, abstain from testifying or to testify falsely.” *See* § 30-24-
9 3(A)(2). Defendant argues that Victim’s testimony about threats “was unreliable and
10 repeatedly contradicted by physical evidence.” The testimony of a single witness,
11 however, can be sufficient to support a verdict, *see State v. Notah*, 2022-NMCA-
12 005, ¶ 11, 503 P.3d 418, and “[r]esolution of conflicts in the evidence, the credibility
13 and [the] weight to be given the testimony of witnesses is the function of the
14 fact[-]finder,” *State v. Casteneda*, 1982-NMCA-046, ¶ 42, 97 N.M. 670, 642 P.2d
15 1129.

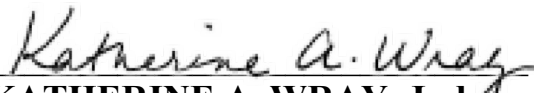
16 {12} We conclude that Victim’s testimony sufficed to support the verdict. Victim
17 testified that before and during the battery, Defendant stated that her daughter would
18 be an orphan, that he needed to find a place to dump her body, and that he would not
19 let her go “call the cops on [him].” Defendant told Victim that even if she reported
20 to the cops, he would not stay in jail for more than a few days and wouldn’t “do

1 time,” and as a result, Victim felt threatened. Despite any other conflicting evidence,
2 Victim’s testimony supported the conclusion that Defendant intimidated Victim to
3 prevent her from reporting the incident in the car. *See Notah*, 2022-NMCA-005, ¶ 11
4 (holding that the “[v]ictim’s testimony alone provided sufficient evidence to support
5 [the d]efendant’s conviction”).

6 **CONCLUSION**

7 {13} We affirm Defendant’s convictions.

8 {14} **IT IS SO ORDERED.**

9
10 
KATHERINE A. WRAY, Judge

11 **WE CONCUR:**

12 
13 JACQUELINE R. MEDINA, Chief Judge

14 
15 ZACHARY A. IVES, Judge