

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

2 **STATE OF NEW MEXICO,**

Court of Appeals of New Mexico  
Filed 5/22/2026 12:10 PM

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

**No. A-1-CA-43161**

5 **ROXANNE BACA,**

6 Defendant-Appellant.

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

8 **Cindy Leos, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennet J. Baur, Chief Public Defender

13 Kathleen T. Baldrige, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **MEDINA, Chief Judge.**

18 {1} This matter was submitted to the Court on the brief in chief pursuant to the  
19 Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and  
20 Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No.  
21 2022-002, effective November 1, 2022. Having considered the brief in chief,  
22 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 her conviction, following a jury trial, for one count of third  
4 degree child abuse (no death or great bodily harm). [RP 182-83, 189] See NMSA  
5 1978, § 30-6-1(D) (2009). Defendant argues that the evidence was insufficient to  
6 support her conviction, specifically contending that the State failed to prove that the  
7 pills and residue found in Defendant’s home were, in fact, fentanyl [BIC 15, 18],  
8 and, as a result, the State failed to prove every element of the charged offense [BIC  
9 13, 15, 18, 24-25].

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

1 {4} We look to the jury instructions to determine what the jury was required to  
2 find beyond a reasonable doubt in order to convict Defendant. *See State v. Holt*,  
3 2016-NMSC-011, ¶ 20, 368 P.3d 409 (“The jury instructions become the law of the  
4 case against which the sufficiency of the evidence is to be measured.” (text only)  
5 (citation omitted)). Here, in pertinent part, the jury was instructed that in order to  
6 find Defendant guilty of child abuse, the State must prove that Defendant allowed  
7 her child (M.G.) “to be within reach of narcotics and drug paraphernalia,” and that  
8 by doing so, “Defendant caused or permitted [M.G.] to be placed in a situation that  
9 endangered” M.G.’s life or health. [RP 156] The jury was further instructed that the  
10 State was required to prove that “Defendant showed a reckless disregard for the  
11 safety or health of” M.G., meaning that “Defendant’s conduct was more than merely  
12 negligent or careless” and that “Defendant caused or permitted a substantial and  
13 unjustifiable risk of serious harm to” M.G.’s safety or health. [*Id.*] “A substantial  
14 and unjustifiable risk” was defined for the jury as a risk “that any law-abiding person  
15 would recognize under similar circumstances and that would cause any law-abiding  
16 person to behave differently” than Defendant out of concern for M.G.’s safety and  
17 health. [*Id.*] Lastly, the jury was instructed that the State must prove that Defendant  
18 acted intentionally in committing the crime of child abuse. [RP 157] The intent  
19 instruction provided that “[a] person acts intentionally when she purposely does an  
20 act which the law declares to be a crime, even though she may not know that [the]

1 act is unlawful.” *[Id.]* The intent instruction further provided that the jury may infer  
2 Defendant’s intent “from all of the surrounding circumstances,” including  
3 Defendant’s manner, conduct, and statements. *[Id.]*

4 {5} According to the brief in chief, the following evidence was presented at trial.  
5 M.G. testified that in the house where she lived with Defendant, there was only one  
6 bathroom, which was connected to Defendant’s bedroom. [BIC 2] M.G. stated that  
7 she did not use the bathroom every day because there were “strange things” in the  
8 bathroom and the door did not lock. *[Id.]* M.G. testified that she recalled seeing tin  
9 foil cut into squares, which were sometimes shiny and sometimes had a “black blob”  
10 in the middle of the square. *[Id.]* M.G. recalled seeing “blue things” on the foil  
11 squares and stated that she sometimes saw the foil in Defendant’s bedroom and saw  
12 the “blue things” more than five times throughout the house, including in  
13 Defendant’s bedroom and the bathroom. [BIC 2-3] M.G. testified that when she  
14 would find the “blue things,” she would pick them up and hand them to Defendant.  
15 [BIC 3]

16 {6} Deputy Kristopher Truell testified that when he arrived at Defendant’s home  
17 after being dispatched for a welfare check, he noticed that M.G.’s hair was greasy  
18 and her clothing was dirty. [BIC 3-4] Deputy Truell described the house as unclean  
19 and unsafe, and stated that M.G. told him she did not feel safe and that “there was a  
20 presence in the home, something bad.” [BIC 4-5] Deputy Truell testified that his

1 body camera footage, a portion of which was played for the jury without audio,  
2 depicted a large amount of drug paraphernalia found throughout the house, including  
3 straws, foil, needles, blue pills, and a tote box—with what appeared to be coloring  
4 books on top of it—containing a rubber tourniquet and Narcan. [BIC 3, 5] Deputy  
5 Truell described noticing a faint chemical smell in the house that was, based on his  
6 training and experience, consistent with fentanyl. [BIC 5] Deputy Truell testified  
7 that based on his training and experience, he believed the blue pills found in the  
8 bathroom were fentanyl given their shape, color, and markings—an “M” on one side  
9 and “30” with a line on the other side. [BIC 6] Deputy Truell further testified to  
10 finding foil with burnt brown residue marks and straws with residue inside the house.

11 [Id.]

12 {7} Detective Catherine Small testified regarding her follow-up investigation to  
13 the initial welfare check, stating that she executed a search warrant for Defendant’s  
14 home and took photographs and collected physical evidence, which were later  
15 entered as the State’s exhibits. [BIC 7-8] The photograph exhibits included images  
16 of (1) a futon with glass pipes and a lighter on top of it; (2) burnt foil in multiple  
17 locations within the house; (3) a small bag of blue pills in the bathroom; (4) the up-  
18 close details of the blue pills; (5) capped needles in the bathroom drawer; and (6) a  
19 plastic straw with burnt residue. [Id.] The physical evidence exhibits included  
20 capped needles, glass pipes, pieces of burnt aluminum foil, straws, and pen tubes.

1 [BIC 8] Detective Small testified that the blue pills were consistent with fentanyl,  
2 and that the aluminum foil with burnt residue, straws, capped needles, and glass  
3 pipes were all consistent with ingesting fentanyl. [BIC 8]

4 {8} Viewing this evidence in the light most favorable to the verdict and resolving  
5 all conflicts and making all permissible inferences in favor thereof, *see Samora*,  
6 2016-NMSC-031, ¶ 34, we conclude that the evidence was sufficient to prove each  
7 element of the offense, including intent. Contrary to Defendant’s arguments  
8 otherwise, the circumstantial nature of the evidence presented does not undermine  
9 the jury’s fact-finding and ultimate verdict, given that “circumstantial evidence  
10 alone can amount to substantial evidence” and “intent is subjective and is almost  
11 always inferred from other facts in the case.” *State v. Flores*, 2010-NMSC-002, ¶ 19,  
12 147 N.M. 542, 226 P.3d 641 (text only) (citation omitted), *overruled on other*  
13 *grounds by State v. Martinez*, 2021-NMSC-002, ¶ 87, 478 P.3d 880; *see also State*  
14 *v. Wasson*, 1998-NMCA-087, ¶ 12, 125 N.M. 656, 964 P.2d 820 (explaining that  
15 “[a] defendant’s knowledge or intent generally presents a question of fact for a jury  
16 to decide”).

17 {9} The majority of Defendant’s arguments and case comparisons are premised  
18 on her assertion that the State failed to prove that the substances and related  
19 paraphernalia found in Defendant’s house were, in fact, fentanyl or items used to  
20 ingest fentanyl. [BIC 13, 17-26] Defendant asserts that without establishing that the

1 items were harmful, the State’s evidence was insufficient to prove a substantial and  
2 foreseeable risk of actual harm to M.G. [BIC 13] We are not persuaded by these  
3 assertions, given that the lay opinion testimony provided by both Deputy Truell and  
4 Detective Small, concerning their identification of the substance as fentanyl, “is  
5 admissible, and the qualifications of the witness[es] go to weight and not  
6 admissibility.” *See State v. Rubio*, 1990-NMCA-090, ¶ 5, 110 N.M. 605, 798 P.2d  
7 206. It is not the role of this Court to second-guess the jury’s determination as to  
8 either the weight of admissible evidence or the credibility of witnesses. *See State v.*  
9 *Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (recognizing that it is  
10 for the fact-finder to resolve any conflict in the testimony of the witnesses and to  
11 determine where the weight and credibility lie); *see also State v. Multine*, 2025-  
12 NMCA-013, ¶ 27, 584 P.3d 898 (providing that we will not second-guess the jury’s  
13 credibility determination on appeal), *cert. denied*, 2025-NMCA-013 (S-1-SC-40873,  
14 May 15, 2025).

15 {10} Moreover, to the extent Defendant contends that the jury relied on conflicting  
16 or contradictory evidence in reaching its verdict [BIC 6; 16-17], we emphasize that  
17 it is the jury’s role, as fact-finder, to resolve any conflict in the testimony or evidence  
18 in determining where weight and credibility lie. *See Salas*, 1999-NMCA-099, ¶ 13;  
19 *Multine*, 2025-NMCA-013, ¶ 27; *see also State v. Rojo*, 1999-NMSC-001, ¶ 19, 126  
20 N.M. 438, 971 P.2d 829 (“Contrary evidence supporting acquittal does not provide

1 a basis for reversal because the jury is free to reject [the d]efendant’s version of the  
2 facts.”); *State v. Barrera*, 2002-NMCA-098, ¶ 10, 132 N.M. 707, 54 P.3d 548 (“We  
3 will affirm a conviction if supported by a fair inference from the evidence regardless  
4 of whether a contrary inference might support a contrary result.”). To that end, “[w]e  
5 do not search for inferences supporting a contrary verdict or re-weigh the evidence  
6 because this type of analysis would substitute an appellate court’s judgment for that  
7 of the jury.” *State v. Graham*, 2005-NMSC-004, ¶ 13, 137 N.M. 197, 109 P.3d 285.  
8 Based on our deferential review of the sufficiency of the evidence, we conclude that  
9 the State’s evidence permitted the jury to make reasonable and fair inferences to  
10 support its verdict—without reliance on speculation, guess, or conjecture to support  
11 its verdict. *See State v. Slade*, 2014-NMCA-088, ¶¶ 13-14, 331 P.3d 930; *Largo*,  
12 2012-NMSC-015, ¶ 30.


13 {11} Based on the foregoing, we affirm Defendant’s conviction for child abuse.

14 {12} **IT IS SO ORDERED.**

15   
16 **JACQUELINE R. MEDINA, Chief Judge**

17 **WE CONCUR:**

18   
19 **JENNIFER L. ATTREP, Judge**

20   
21 **MEGAN P. DUFFY, Judge**