

1 insufficient evidence that Defendant intended to distribute methamphetamine. For
2 the reasons that follow, we affirm.

3 **BACKGROUND**

4 {2} On January 25, 2023, three probation officers conducted a visit of Defendant’s
5 motel room in Clovis, New Mexico, where Defendant was staying with his
6 girlfriend. The probation officers observed a crystalized substance and syringe in an
7 open black box along with beer cans and a pipe on the nightstand, and contacted the
8 Clovis Police Department. A sergeant then came to the motel to investigate.

9 {3} Upon arriving at the room, the sergeant located a black box, which contained
10 a needle, baggies, loose methamphetamine, and a crystalized rock that later tested
11 positive for methamphetamine on the nightstand. The sergeant also observed a
12 digital scale on the nightstand and “some glass meth pipes and a large bong” on a
13 nearby dresser. Defendant and his girlfriend then agreed to a search of the room. The
14 sergeant searched the girlfriend’s purse and found baggies with a substance that
15 tested positive for black tar heroin, blue pills that tested positive for acetaminophen
16 though testing could not rule out fentanyl, and Xanax pills. As a result, Defendant
17 was charged with two counts of trafficking a controlled substance by possession with
18 intent to distribute, contrary to Section 30-31-20, for the heroin and
19 methamphetamine; and two counts of distribution of a controlled substance, contrary
20 to NMSA 1978, Section 30-31-22 (2021), for the Xanax and fentanyl.

1 {4} At trial, the State began to ask one of the probation officers about four
2 photographs she had taken while in the motel room. One of the photographs—the
3 main photograph at issue and admitted as State’s Exhibit 2—showed a black box
4 containing methamphetamine, a syringe, and baggies on the nightstand, but
5 inaccurately showed marked baggies of Xanax and fentanyl on the nightstand as
6 well, which had been placed there later by investigators. Defendant immediately
7 asked to approach the bench, asserting that the State had not provided the
8 photographs during discovery in this case. The State asserted that the photographs
9 had been in discovery “for some time” and that the photographs were also mentioned
10 in reports for Defendant’s separate probation violation case. Defendant again
11 asserted that he was not provided the photographs—to include Exhibit 2, which
12 inaccurately shows the Xanax and fentanyl baggies on the nightstand—in discovery,
13 nor were Defendant’s probation reports provided in this case.

14 {5} The district court heard argument outside the presence of the jury about the
15 admissibility of the photographs. Defendant argued that admission would be
16 prejudicial because counsel was not able to advise Defendant on all of the evidence
17 the State had against him and Defendant believed that the other drugs photographed
18 on the nightstand had been moved from their original locations before the
19 photographs were taken, such that defense counsel would have used the photographs
20 in pretrial interviews and to impeach the State’s witnesses. The district court then

1 questioned the parties about production of the photographs during discovery. The
2 State conceded that it could not definitively state whether the photographs were
3 produced during discovery; however, the State again asserted that black and white
4 copies of the photographs were provided in Defendant’s separate probation violation
5 case.

6 {6} To address the potential discovery violation, the district court made color
7 copies of the photographs and allowed Defendant to question the probation officer
8 about them. After questioning the probation officer outside the presence of the jury,
9 Defendant renewed his objection to admission of the photographs. The State
10 admitted that the photographs were disclosed late. The district court found that while
11 the photographs were not timely disclosed, the “only prejudice [counsel was]
12 asserting is that you just didn’t have them beforehand to properly advise your client”
13 and any prejudice to Defendant was insufficient to warrant their exclusion.

14 {7} The probation officer’s testimony regarding the photographs then resumed,
15 and she testified that three of the photographs, including Exhibit 2—were taken
16 when she first arrived to the room, showing the scene as it was before anything was
17 moved during the investigation, and the fourth photograph was taken after the
18 sergeant collected and placed items in the box for transport to the police department.
19 The district court admitted the photographs, including Exhibit 2, over Defendant’s
20 objections.

1 {8} The sergeant testified next and agreed that the first three photographs,
2 including Exhibit 2, depicted the nightstand as it was when he arrived at Defendant’s
3 room, with the methamphetamine, baggie of Xanax pills, baggie of fentanyl pills, a
4 blowtorch, and a crushed can with methamphetamine residue visible. He also
5 explained that the fourth photograph depicted the nightstand after he had searched
6 the room and “collected everything.” On cross-examination, Defendant attempted to
7 impeach the sergeant’s earlier direct testimony with his police report, which stated
8 that the baggies containing fentanyl and Xanax were found in the girlfriend’s purse.
9 The sergeant claimed that his testimony on direct examination, that these items were
10 found on the nightstand, was correct and that any misrepresentation was in his police
11 report.¹

12 {9} Additionally, the sergeant was qualified as an expert in narcotics
13 investigations and narcotics trafficking, and testified that the crystalized rock tested
14 positive for methamphetamine and that the amount of methamphetamine found in
15 Defendant’s motel room, “approximately ten grams,” was not that of a typical user.
16 The sergeant testified that he has seen this amount in other trafficking cases and that
17 based on his training and experience, “there was narcotics trafficking happening in
18 that room,” because of “the amount of methamphetamine located along with the

¹In regard to the baggie of heroin, the sergeant’s testimony was consistent that it was found in the girlfriend’s purse.

1 scale and the baggies located.” He then reiterated his opinion that, “I believe that
2 there was indeed narcotics trafficking happening from that hotel room” based on the
3 scale, labelled and prepackaged baggies, and amount of methamphetamine found.

4 {10} The State then had a forensic chemistry expert testify as to testing of the drugs
5 found. At the close of the State’s case, Defendant moved for directed verdicts on all
6 charges. The district court granted the motion with respect to Defendant’s heroin
7 charge because the evidence showed the heroin was found in the girlfriend’s purse,
8 but denied the motion with respect to the other charges finding there was evidence
9 for the jury to determine whether those drugs were found on the nightstand or in the
10 girlfriend’s purse.

11 {11} Defendant then recalled the sergeant as their only witness. The sergeant
12 continued to insist that the photographs depicted Defendant’s motel room as it was
13 when he arrived, with the box, methamphetamine, Xanax, and fentanyl all on the
14 nightstand, again asserting that his police report and preliminary examination
15 testimony were inaccurate. After the sergeant’s testimony, the district court
16 reconsidered Defendant’s motion for directed verdict. Defendant argued that there
17 was contradictory evidence as to where the remaining drugs were found and that had
18 the photographs been disclosed before trial, Defendant would have been able to
19 show that the photographs were taken after the investigation began. At this point,
20 the district court admitted it was reconsidering its previous ruling on the disclosure

1 violation, as it was unclear whether allowing Defendant to question the officer was
2 enough to overcome the prejudice to Defendant because it was controverted when
3 the photographs were taken.

4 {12} As a remedy, the district court offered to consider either allowing Defendant
5 to recall and question the probation officer further or declaring a mistrial and asked
6 the parties to consider how they wanted to move forward. Defendant declined to
7 request a mistrial and instead argued to “reopen the case” to use a screenshot of the
8 sergeant’s body camera footage from that day to impeach witnesses; the State
9 deferred to the district court on how to handle its late disclosure. The judge agreed
10 to reopen the case for the Defendant to recall one witness.

11 {13} Defendant then recalled the sergeant for a second time. The sergeant again
12 testified that he saw the Xanax, fentanyl, and baggies were on the nightstand when
13 he entered the room. Defendant showed the sergeant a screenshot of his body camera
14 footage, which depicted the nightstand as it was when the sergeant entered the room.
15 The screenshot showed the box on the nightstand with the crystalized rock inside of
16 it, but no fentanyl, Xanax, or baggies were visible. The screenshot conclusively
17 established that the probation officer and sergeant had both given inaccurate
18 testimony about what was found on the nightstand when law enforcement arrived.
19 Given this indisputable evidence, the sergeant admitted that except for the
20 methamphetamine, all other drugs were found in the girlfriend’s purse as stated in

1 his police report. Based on this impeachment, the district court granted Defendant’s
2 renewed motion for directed verdict with respect to his charges for Xanax and
3 fentanyl.

4 {14} The jury convicted Defendant on the sole remaining charge of trafficking
5 methamphetamine by possession with intent to distribute. After trial, Defendant filed
6 a motion for judgment notwithstanding the verdict arguing that there was
7 “insufficient evidence to support the jury[’s] verdict on the element of intent to
8 transfer” and that the State violated *Brady* principles by not disclosing the officer’s
9 photographs before trial. *See Brady v. Maryland*, 373 U.S. 83 (1963).

10 {15} The district court reviewed the alleged *Brady* violation as a motion for a new
11 trial separate from the motion for judgment notwithstanding the verdict, explaining
12 that this was a discovery issue rather than a *Brady* violation because the photographs
13 were disclosed in this case during trial. The court noted that Defendant did not
14 request a mistrial when given the option to do so but instead used the photographs
15 to effectively impeach the sergeant. The district court ultimately denied the motion
16 for a new trial, finding that Defendant was afforded time to question witnesses about
17 the photographs, which provided Defendant impeachment material. The district
18 court also reasoned that other evidence presented was sufficient for the jury to find
19 Defendant guilty on the trafficking of methamphetamine charge.

20 {16} Defendant now appeals.

1 **DISCUSSION**

2 {17} On appeal, Defendant argues that (1) the district court erred in admitting the
3 undisclosed photographs into evidence; (2) the sergeant’s expert testimony about the
4 ultimate issue of trafficking constituted plain error; and (3) the State failed to present
5 sufficient evidence that Defendant intended to distribute methamphetamine. We
6 consider Defendant’s arguments in turn.

7 **I. Admission of Undisclosed Photographs**

8 {18} First, Defendant contends that the district court erred by admitting the
9 previously undisclosed photographs at trial. Specifically, Defendant asserts that the
10 late disclosure of the probation officer’s photographs violated Defendant’s right to
11 due process and the State’s discovery obligations. The State asserts that reversal is
12 not warranted in this case because the “record shows that the late disclosure was, at
13 most, inadvertent,” and Defendant had knowledge of their existence since copies of
14 the photographs were attached to Defendant’s probation violation report.² We
15 conclude that the district court’s admission of the photographs does not constitute
16 reversible error.

²We remind the State that, “the best way to avoid reversal for failure to disclose evidence to [a] defendant before trial is for the state to review methodically and diligently the information available to it and to disclose all exculpatory information to [the] defendant, giving [the] defendant the benefit of the doubt on arguable matters.” *State v. Altgilbers*, 1989-NMCA-106, ¶ 34, 109 N.M. 453, 786 P.2d 680.

1 {19} The suppression of favorable evidence violates a defendant’s due process
2 rights. *See State v. Huerta-Castro*, 2017-NMCA-026, ¶ 33, 390 P.3d 185, *abrogated*
3 *on other grounds by Ramirez v. Marsh*, 2025-NMSC-050, ¶ 34 n.6, 580 P.3d 768.
4 New Mexico equates disclosure violations “to a charge of prosecutorial misconduct,
5 which appellate courts review for an abuse of discretion.” *Huerta-Castro*, 2017-
6 NMCA-026, ¶ 32. “In order to find an abuse of discretion, we must conclude that
7 the decision below was against logic and not justified by reason.” *State v. McDaniel*,
8 2004-NMCA-022, ¶ 6, 135 N.M. 84, 84 P.3d 701. Although *Brady* is applicable only
9 when it is revealed after trial that the state failed to disclose material and exculpatory
10 evidence to the accused, we use a similar analysis when evidence is disclosed for the
11 first time during trial and evaluate “whether the late tender has impeded the effective
12 use of evidence in such a way that impacts the fundamental fairness of the
13 proceedings.” *Huerta-Castro*, 2017-NMCA-026, ¶ 36. To determine whether a late
14 disclosure is reversible error we consider, “(1) whether the [s]tate breached some
15 duty or intentionally deprived the defendant of [the] evidence; (2) whether the
16 improperly non-disclosed evidence was material; (3) whether the non-disclosure of
17 the evidence prejudiced the defendant; and (4) whether the trial court cured the
18 failure to timely disclose the evidence.” *State v. Mora*, 1997-NMSC-060, ¶ 43, 124
19 N.M. 346, 950 P.2d 789, *abrogated on other grounds by State v. Frazier*, 2007-
20 NMSC-032, ¶ 31, 142 N.M. 120, 164 P.3d 1. “[A] defendant bears the burden of

1 proving [they were] prejudiced by non-disclosure of evidence.” *State v. Ortega*,
2 2014-NMSC-017, ¶ 43, 327 P.3d 1076.

3 {20} Assuming that the first three *Mora* factors are met, the issue here is whether
4 the district court cured the State’s failure to timely disclose the photographs. *See*
5 *Mora*, 1997-NMSC-060, ¶ 44 (explaining that “resolution of this issue hinges on
6 whether the trial court cured the failure to timely disclose the evidence” when
7 assuming the first three factors were met).

8 {21} “In determining prejudice to a defendant where the state initially deprives
9 [the] defendant of the evidence but later produces the evidence, the reviewing court
10 should consider whether the failure to timely disclose the evidence was cured by the
11 trial court.” *Id.* (internal quotation marks and citation omitted). A district court’s
12 curative action “concerns the form of remedy, or sanction imposed by the district
13 court in response to the untimely disclosure.” *State v. Ruiz*, 2007-NMCA-014, ¶ 54,
14 141 N.M. 53, 150 P.3d 1003. Defendant argues the district court’s remedies did not
15 cure the State’s failure to timely disclose the photographs. We disagree.

16 {22} Instead of requesting a mistrial when given the opportunity to do so by the
17 district court, Defendant opted to reopen the case to recall and impeach the sergeant
18 with screenshots from his body camera. The impeachment revealed that two of the
19 State’s witnesses, the sergeant and the probation officer, had provided false
20 testimony at trial as it became apparent that the photographs were taken after

1 evidence had been moved by investigating officers rather than showing the
2 nightstand as it was when law enforcement arrived, as the witnesses had initially
3 testified. In fact, the sergeant ultimately admitted that, except for the
4 methamphetamine, all of the other drugs had been located in the girlfriend's purse
5 and not on the nightstand. This impeachment testimony was in accord with what the
6 sergeant had stated in his police report, pretrial interview, and sworn testimony
7 before trial. As a result, the district court granted Defendant's renewed motion for
8 directed verdict with respect to the fentanyl and Xanax charges. Additionally,
9 although the district court did not grant Defendant's motion with respect to the
10 methamphetamine possession with intent to distribute charge, as we explain below,
11 there was other evidence to support submission of this charge to the jury.

12 {23} In *Mora*, the district court also gave defense counsel the opportunity to
13 reexamine any witness that had testified before the evidence at issue was disclosed,
14 but counsel chose not to do so. 1997-NMSC-060, ¶ 46. The defendant argued that
15 their conviction should be reversed because of the state's late disclosure, *see id.* ¶ 43,
16 but our Supreme Court held that the "[d]efendant waived [their] claim that the late
17 disclosure of the tapes prevented [them] from effectively cross-examining witnesses,
18 because defense counsel failed to recall any witness when given the opportunity to
19 do so." *Id.* ¶ 46. Similarly in *State v. Hall*, the district court explained that it would
20 consider a recess to allow a defendant the opportunity to make use of evidence that

1 was not timely disclosed, but the defendant did not seek a recess. 1987-NMCA-145,
2 ¶ 7, 107 N.M. 17, 751 P.2d 701. This Court viewed the defendant’s inaction “as a
3 cure of any prejudice that may have resulted from the untimely production,” *and*
4 explained that the “defendant’s inaction [w]as a waiver of any claim that the [district]
5 court abused its discretion in not granting a continuance.” *Id.* In this case, Defendant
6 expressly denied the district court’s offered cure of declaring a mistrial and elected
7 to reexamine and impeach the sergeant. Thus, the district court’s remedy of allowing
8 Defendant to recall and impeach the sergeant’s testimony and subsequent dismissal
9 of the Xanax and fentanyl trafficking charges sufficiently cured the State’s error in
10 failing to properly disclose the photograph, *and* in doing so, Defendant waived any
11 claim that the district court’s cure for the late-admitted photographs was prejudicial.
12 *See Mora*, 1997-NMSC-060, ¶ 46. Therefore, we conclude that even if the State
13 violated a duty to disclose the photographs, the photographs were material, and late
14 disclosure was prejudicial to Defendant, Defendant waived any claim that the district
15 court’s decision to admit the photographs and allow Defendant to impeach the
16 sergeant was reversible error. *See id.* ¶ 46; *Hall*, 1987-NMCA-145, ¶ 7. Accordingly,
17 the admission of the photographs at trial does not constitute reversible error in this
18 case.

1 **II. Ultimate Issue Testimony**

2 {24} Defendant next argues that the district court erred in permitting the sergeant
3 to opine that Defendant was guilty of trafficking methamphetamine, reaching the
4 ultimate issue in this case. However, Defendant concedes that because this issue was
5 not objected to at trial or preserved for appeal, this Court may review only for plain
6 error. The State agrees that plain error is the correct standard of review, and asserts
7 that there was no plain error because Defendant has not shown that the form of the
8 sergeant’s expert opinion in answer to two questions created grave doubts about the
9 validity of the verdict. Assuming that the sergeant’s statements were in error, we
10 conclude that the testimony was not in plain error.

11 {25} “Unpreserved evidentiary errors are reviewable on appeal under a plain error
12 standard.” *State v. Paglinawan*, 2026-NMCA-044, ¶ 11, 586 P.3d 346 (internal
13 quotation marks and citation omitted); Rule 11-103(E) NMRA (allowing this Court
14 to review evidentiary questions that are not preserved under a plain error standard).
15 When determining whether there has been plain error, this Court “must examine the
16 alleged errors in the context of the testimony as a whole.” *State v. Dylan J.*, 2009-
17 NMCA-027, ¶ 15, 145 N.M. 719, 204 P.3d 44 (internal quotation marks and citation
18 omitted). To find plain error, this Court must be convinced “that admission of the
19 [evidence] constituted an injustice that created grave doubts concerning the validity
20 of the verdict.” *State v. Montoya*, 2015-NMSC-010, ¶ 46, 345 P.3d 1056 (internal

1 quotation marks and citation omitted); *see State v. Chavez*, 2024-NMSC-023, ¶ 10,
2 562 P.3d 521 (“We will not reverse on the basis of plain error unless the error
3 affected a substantial right of the defendant.” (alteration, internal quotation marks,
4 and citation omitted)). The focus of our review is on the error’s effect on the overall
5 fairness and integrity of the proceedings, and on the public perception of the
6 proceeding’s fairness, rather than on whether the defendant’s guilt is so doubtful it
7 would shock the conscience to allow it to stand. *See Chavez*, 2024-NMSC-023, ¶ 11.
8 Because “[p]lain error is an exception to the general rule that parties must raise
9 timely objection to improprieties at trial, . . . it is to be used sparingly.” *Dylan J.*,
10 2009-NMCA-027, ¶ 15 (internal quotation marks and citation omitted). To warrant
11 reversal, the issue raised must amount to an error that is plain and that affects the
12 substantial rights of the defendant. *See id.* That is, the Court must be convinced that
13 admission of the testimony constituted an injustice that created grave doubts
14 concerning the validity of the verdict. *See id.*

15 {26} Expert witnesses cannot testify directly to a defendant’s intent or “state their
16 opinion of the defendant’s guilt,” but they can testify about trafficking versus
17 personal use quantities of drugs. *State v. Rael-Gallegos*, 2013-NMCA-092, ¶¶ 29-
18 30, 308 P.3d 1016; *see* Rule 11-702 NMRA (allowing expert witnesses to “testify in
19 the form of an opinion or otherwise if the expert’s scientific, technical, or other
20 specialized knowledge will help the trier of fact to understand the evidence or to

1 determine a fact in issue”). Similarly, an officer’s testimony may embrace the
2 ultimate issue by educating the jury in regard to what factors, in their experience,
3 warranted a trafficking charge. *See Rael-Gallegos*, 2013-NMCA-092, ¶ 33; *see also*
4 Rule 11-704 NMRA (stating that “[a]n opinion is not objectionable just because it
5 embraces an ultimate issue”). In *Rael-Gallegos*, this Court acknowledged that it can
6 be difficult to determine when an expert crosses the line constituting error when
7 testifying about whether a person possessing drugs intends the drugs to be for
8 personal use or to traffic those drugs based on the amount and other evidence found.
9 *Id.* ¶ 35. This Court concluded that the expert’s testimony was permissible in that
10 case because the expert was not asked, nor did they offer, their opinion as to whether
11 the defendant was trafficking and did not offer an opinion that the defendant had
12 intent to distribute. *Id.* ¶¶ 32-33. The expert instead permissibly testified about the
13 factors that warrant a trafficking charge based on their experience. *Id.* ¶ 33. Thus,
14 while close to the ultimate issue line, the testimony provided information regarding
15 the indicia of drug trafficking and to assist the jury in understanding intent. *Id.* ¶ 37.

16 {27} While the investigating sergeant was qualified as a testifying expert in
17 narcotics investigations and narcotics trafficking, Defendant argues that the
18 sergeant’s expert testimony crossed the line from guiding the jury regarding indica
19 of narcotics trafficking generally, to offering his opinion regarding Defendant’s guilt
20 because the sergeant testified twice that drugs were being trafficked from

1 Defendant's motel room. In the first instance, the sergeant was asked, "With
2 everything you found, different items, amounts, what does your training and
3 investigations, your experience tell you was going on here?" The sergeant answered,
4 "there was narcotics trafficking happening in that room" based on "the amount of
5 methamphetamine located along with the scale and the baggies located." Later in his
6 testimony, the sergeant was again asked his expert opinion based on his
7 investigations over the years and answered, "With everything that was collected,
8 with the baggies, with the amount of narcotics located, I believe that there was
9 indeed narcotics trafficking happening from that hotel room." The State admits that
10 the form of the sergeant's first statement was improper, but argues it does not
11 constitute plain error.

12 {28} Although the sergeant's challenged testimony alone appears to be opinion
13 testimony of Defendant's guilt regarding trafficking methamphetamine, we must
14 view his statements in the context of his testimony as a whole to determine whether
15 they amounted to plain error. *See State v. Dylan J.*, 2009-NMCA-027, ¶ 15.
16 Although Defendant has argued that the sergeant's answers to two questions asked
17 by the State were impermissible statements about Defendant's guilt of drug
18 trafficking, Defendant's brief fails to provide any information about the context of
19 these two questions and answers and makes no argument about why the answers
20 affected the overall fairness of the trial. As the State notes in its answer brief,

1 Defendant simply asserts, without providing a developed argument, that this expert
2 testimony “was likely to have impacted the jury’s verdict.” In his reply brief,
3 Defendant briefly argues that the sergeant’s testimony was unfairly prejudicial and
4 made in plain error because it impacted Defendant’s substantial rights by infringing
5 on a determination belonging to the jury—whether Defendant was guilty of
6 possession with intent to traffic methamphetamine. Evidence is unfairly prejudicial
7 when “the prejudicial effect of expert testimony substantially outweighs its probative
8 value.” *State v. Yopez*, 2021-NMSC-010, ¶ 19, 483 P.3d 576; accord Rule 11-403
9 NMRA. Although the sergeant’s testimony did describe the amount of
10 methamphetamine in the room negatively and as consistent with trafficking, any
11 prejudice did not substantially outweigh its probative value because the testimony
12 provided the jury with details about what was found in Defendant’s room and helped
13 the jury contextualize the amount found. *See Paglinawan*, 2026-NMCA-044, ¶ 24
14 (concluding that expert testimony was not overly prejudicial when it “provided
15 context for the investigation, information about the drugs found, and details about
16 how these drugs are typically used and sold”). Additionally, the sergeant’s testimony
17 did not detract from the jury’s ability to independently draw conclusions based on
18 the other evidence presented at trial, including the presence of baggies and a scale
19 found in the motel room. *See Rael-Gallegos*, 2013-NMCA-092, ¶ 34. The district
20 court instructed the jurors that they are the sole judges of the facts in this case and

1 alone judge witness credibility and give weight to witness testimony. *See* UJI 14-
2 118 NMRA (jury instruction explaining that the jury should give expert opinions
3 and reasoning the weight they think they deserve and “may reject an opinion
4 entirely”). Thus, even if the sergeant’s testimony was in error, we cannot say it
5 affected the fairness of the trial or substantive rights of Defendant. *See State v.*
6 *Gwynne*, 2018-NMCA-033, ¶ 38, 417 P.3d 1157 (explaining that even if errors in
7 expert testimony occurred, they were not plain error if they did not affect the fairness
8 of the trial or substantial rights of the defendant). Therefore, we conclude that no
9 plain error resulted from the sergeant’s expert testimony.

10 **III. Sufficiency of the Evidence**

11 {29} Defendant last argues that the evidence presented at trial was insufficient to
12 support the conclusion that he intended to transfer methamphetamine to another
13 person. The State argues that the jury was presented with sufficient evidence that
14 Defendant intended to transfer or distribute methamphetamine. We conclude that
15 there was sufficient evidence to support Defendant’s conviction.

16 {30} Sufficient evidence is “relevant evidence that a reasonable mind might accept
17 as adequate to support a conclusion.” *See State v. Rojo*, 1999-NMSC-001, ¶ 19, 126
18 N.M. 438, 971 P.2d 829. When assessing the sufficiency of the evidence, this Court
19 “determine[s] whether any rational jury could have found the essential facts to
20 establish each element of the crime beyond a reasonable doubt.” *State v. Consaul*,

1 2014-NMSC-030, ¶ 42, 332 P.3d 850 (internal quotation marks and citation
2 omitted). In doing so, this Court views the evidence “in the light most favorable to
3 the guilty verdict, indulging all reasonable inferences and resolving all conflicts in
4 the evidence in favor of the verdict.” *State v. Cunningham*, 2000-NMSC-009, ¶ 26,
5 128 N.M. 711, 998 P.2d 176. We do not reweigh evidence or substitute our judgment
6 for that of the fact-finder. *Id.* ¶ 30.

7 {31} In order to prove trafficking of methamphetamine by possession with intent
8 to distribute, the jury instructions required the State to prove that “Defendant
9 intended to transfer [methamphetamine] to another.” This intent can be inferred from
10 the surrounding facts and circumstances such as the quantity of drugs, the presence
11 of paraphernalia associated with distribution, or expert testimony regarding the
12 inconsistency of the quantity with personal use. *See State v. Hubbard*, 1992-NMCA-
13 014, ¶ 15, 113 N.M. 538, 828 P.2d 971.

14 {32} Here, the State presented testimony and a forensic laboratory report that the
15 crystalized rock found in Defendant’s motel room tested positive for
16 methamphetamine and weighed 8.74 grams. The sergeant, a qualified expert in
17 narcotics investigations and narcotics trafficking, explained that the quantity of
18 methamphetamine found in Defendant’s motel room was more indicative of
19 trafficking than personal use because a user typically possesses between 1.7 grams
20 and 3.5 grams, while a heavy user typically possesses between 3.5 grams and 5

1 grams. He then testified that Defendant was charged with trafficking based on the
2 quantity of methamphetamine found in the motel room, as well as the scale and
3 baggies present.

4 {33} In *Hubbard*, this Court reasoned that expert testimony concerning the items
5 and quantity of drugs found at a defendant’s residence was sufficient to support a
6 conviction for trafficking by possession with intent to distribute. *See* 1992-NMCA-
7 014, ¶¶ 10-14. Similarly, here a reasonable juror could infer that Defendant intended
8 to distribute based on the quantity of the methamphetamine, the scale, and the
9 baggies found in the motel room. Although Defendant argues that this evidence
10 could also be consistent with personal use, “[o]ur role is only to determine whether
11 substantial evidence exists to support the conviction and not whether evidence exists
12 to support an opposite result.” *Id.* ¶ 12.

13 {34} Therefore, we conclude that there was sufficient evidence presented for the
14 jury to find that Defendant intended to transfer methamphetamine to another and to
15 convict Defendant for trafficking of methamphetamine by possession with intent to
16 distribute.

17 **CONCLUSION**

18 {35} For the foregoing reasons, we affirm.

1 {36} IT IS SO ORDERED.



2
3
SHAMMARA H. HENDERSON, Judge

4 WE CONCUR:

5 *Jacqueline R. Medina*

6 JACQUELINE R. MEDINA, Chief Judge

7 *Jane B. Yochalem*

8 JANE B. YOCHALEM, Judge