IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v. **No. A-1-CA-42681**

STEPHANIE REDDELL,

Defendant-Appellant.

APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO COUNTY
Renee Torres, Metropolitan Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Santa Fe, NM
Luz C. Valverde, Assistant Appellate Defender
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

HENDERSON, Judge.

{1} This matter was submitted to the Court on the brief in chief pursuant to this Court's general calendar notice with a modified briefing schedule. Having considered the brief in chief, concluding the briefing submitted to the Court provides no possibility for reversal, and determining that this case is appropriate for resolution

on Track 1 as defined in the Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No. 2022-002, effective November 1, 2022, we affirm for the following reasons.

{2} Defendant Stephanie Reddell appeals from her conviction for aggravated driving under the influence of an intoxicating liquor following a bench trial on two grounds. First, Defendant contends that the metropolitan court erred when it "improperly relied on [Defendant's] refusal to take a breathalyzer test as consciousness of guilt." [BIC 4] Second, Defendant argues that there was insufficient evidence presented in support of her conviction that "she was impaired to the extent she could not safety drive." [BIC 10]

{3} Turning to Defendant's first argument, the brief in chief explains that the metropolitan court noted the following: "the fact that [Defendant] refused to do the breath alcohol test, the court does consider that pursuant to *State v. Sanchez*[, 2001-NMCA-109, ¶ 9, 131 N.M. 355, 36 P.3d 446] and other case law to be consciousness of guilt [Defendant] had the opportunity to submit [to alcohol testing] and chose not to do so even after being given the opportunity to do that." [BIC 4] "We review the admission of evidence under an abuse of discretion standard." *State v. Sarracino*, 1998-NMSC-022, ¶ 20, 125 N.M. 511, 964 P.2d 72.

{4} As the metropolitan court correctly observed, New Mexico courts have long held that a fact-finder may reasonably infer consciousness of guilt and fear of the results from a defendant's refusal to both perform standardized field sobriety tests (SFSTs) and to take a breath test. *See State v. Storey*, 2018-NMCA-009, ¶ 40, 410 P.3d 256 ("New Mexico courts repeatedly have relied on evidence of refusal to consent to breath . . . alcohol tests to support convictions for driving while under the influence of alcohol."); *Sanchez*, 2001-NMCA-109, ¶ 9 ("The [s]tate can use evidence of a driver's refusal to consent to the field sobriety testing to create an inference of the driver's consciousness of guilt."); *McKay v. David*, 1982-NMSC-122, ¶¶ 3, 14, 16-18, 99 N.M. 29, 653 P.2d 860 (explaining that it is well-established that evidence of consciousness of guilt—such as flight, avoiding arrest, and refusing to take a breath test—is admissible and relevant, and nothing in our constitutional, statutory, or relevancy law suggests otherwise). As such, we conclude that the metropolitan court did not err by considering Defendant's refusal to submit to a breath test as evidence of consciousness of guilt.

{5} Defendant further challenges the sufficiency of the evidence to support her conviction. [BIC 9-13] Aggravated driving under the influence of an intoxicating liquor consists of an individual who "refus[ed] to submit to chemical testing, as provided for in the Implied Consent Act, [NMSA 1978, §§ 66-8-105 to -112 (1978, as amended through 2025)], and in the judgment of the court, based upon evidence

of intoxication presented to the court, the driver was under the influence of intoxicating liquor." NMSA 1978, Section 66-8-102(D)(3) (2016). Defendant does not dispute that she "refus[ed] to submit to chemical testing," and thus the only question is whether there was sufficient evidence presented to support the metropolitan court's conclusion that Defendant "was [driving] under the influence of intoxicating liquor." *Id.*

{6} When assessing the sufficiency of the evidence, "we view the evidence in the light most favorable to the guilty verdict, indulging all reasonable inferences and resolving all conflicts in the evidence in favor of the verdict." *State v. Samora*, 2016-NMSC-031, ¶ 34, 387 P.3d 230 (internal quotation marks and citation omitted). We disregard all evidence and inferences that support a different result. *See State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829. "We then determine whether substantial evidence of either a direct or circumstantial nature exists to support a verdict of guilt beyond a reasonable doubt with respect to every element essential to a conviction." *State v. Garcia*, 2016-NMSC-034, ¶ 15, 384 P.3d 1076 (internal quotation marks and citation omitted). "Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion." *State v. Largo*, 2012-NMSC-015, ¶ 30, 278 P.3d 532 (internal quotation marks and citation omitted).

{7} According to the brief in chief, the following was presented at the bench trial. The officer testified that after arriving at the gas station, "[he] had seen a woman wearing a white shirt arguing with one of the [witnesses], and then get into the white sedan and pull out of the lot." [BIC 2] "When [the officer] approached the car, he testified that he noted a strong odor of alcohol, and had [Defendant] get out of her car." [BIC 3] The officer learned that the license plate on Defendant's car initially came back as a potentially stolen vehicle and he detained Defendant as a result. [BIC 3] After confirming that the vehicle had not been reported stolen, "[the officer] testified that [Defendant] was no longer detained and that he tried to remove her cuffs so she could perform field sobriety tests (SFSTs)." [BIC 3] However, "[Defendant] mocked the officer, sw[ore] at him, repeat[ed] his questions back to him, . . . saying[,] 'I'll be quiet, I'll be quiet,' and even after he apologized for mistakenly identifying her vehicle as stolen, declined to perform SFSTs, [and] challeng[ed] the officer to just take her to jail." [BIC 8] The officer additionally testified that he had observed "slurred speech and her nonsensical replies to his questions." [BIC 3] "At the station, [the officer] read the [I]mplied [C]onsent [A]ct to [Defendant] and offered a breath test via the Intoxilyzer 8000. [Defendant] did not answer the officer, and he took that as a refusal." [BIC 4, 8]

{8} Viewing "the evidence in the light most favorable to the guilty verdict, indulging all reasonable inferences and resolving all conflicts in the evidence in

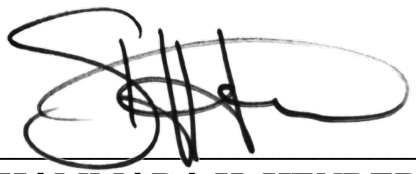
favor of the verdict," *State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176, we conclude that this evidence is sufficient to support Defendant's conviction. *See State v. Loya*, 2011-NMCA-077, ¶¶ 18-20, 150 N.M. 373, 258 P.3d 1165 (holding that sufficient evidence supported a conviction for aggravated DUI where the defendant drove with bloodshot, watery eyes, had slurred speech and an odor of alcohol, the defendant admitted to drinking, and the defendant refused to submit to chemical testing after being read the Implied Consent Act).

{9} To the extent that Defendant asks this Court to consider her alternative explanations for her refusals to cooperate with the officer, her bloodshot, watery eyes observed by the officer, her combative demeanor, the odor of alcohol emanating from Defendant's car, or otherwise reweigh the presented evidence [BIC 7-8, 12], case law mandates otherwise. *See State v. Montoya*, 2005-NMCA-078, ¶ 3, 137 N.M. 713, 114 P.3d 393 ("When a defendant argues that the evidence and inferences present two equally reasonable hypotheses, one consistent with guilt and another consistent with innocence, our answer is that by its verdict, the [fact-finder] has necessarily found the hypothesis of guilt more reasonable than the hypothesis of innocence."); *Rojo*, 1999-NMSC-001, ¶ 19 (explaining that our Court will disregard all evidence and inferences that support a different result in conducting a sufficiency analysis); *see also State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d

482 (explaining that this Court defers "to the [trial] court when it weighs the credibility of witnesses and resolves conflicts in witness testimony").

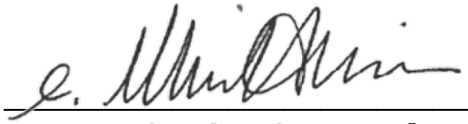
{10} For these reasons, we affirm Defendant's conviction for aggravated driving under the influence of an intoxicating liquor.

{11} **IT IS SO ORDERED.**



SHAMMARA H. HENDERSON, Judge

WE CONCUR:



J. MILES HANISEE, Judge

ZACHARY A. IVES, Judge