

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Court of Appeals of New Mexico
Filed 10/13/2026 11:37 AM

Plaintiff-Appellee,



Mark Reynolds

v.

No. A-1-CA-43133

DELANEY ANGELINA BRIGMAN,

Defendant-Appellant.

**APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO
COUNTY**

Asra Elliott, Metropolitan Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM

for Appellee

Justice Legal Group
Amanda D. Navarro
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

WRAY, Judge.

{1} Defendant appeals the metropolitan court's judgment and deferred sentence,
by which Defendant was convicted of driving while under the influence of liquor or
drugs (DWI) (first offense) and failure to maintain traffic lane and ordered to serve
one year on supervised probation. We issued a notice proposing to summarily affirm
her convictions and to summarily remand to the metropolitan court for correction of

1 the judgment and sentence. Defendant has responded to our notice with a
2 memorandum in opposition, which we have duly considered. We remain
3 unpersuaded for the reasons discussed below. Accordingly, we affirm Defendant’s
4 conviction and remand for correction of the judgment and sentence to reflect that
5 Defendant was found guilty of the charged offenses pursuant to a bench trial.

6 {2} In response to our notice, Defendant pursues her contentions that the officer
7 lacked reasonable suspicion to initiate a traffic stop of Defendant [MIO 10-13] and
8 lacked probable cause to arrest her for DWI [MIO 15-19]. On these grounds,
9 Defendant now contends that the breath-test evidence should be suppressed. [MIO
10 19] We address these issues in turn.

11 {3} When reviewing the denial of a motion to suppress, “[w]e view the facts in
12 the manner most favorable to the prevailing party and defer to the district court’s
13 findings of fact if substantial evidence exists to support those findings.” *State v.*
14 *Urioste*, 2002-NMSC-023, ¶ 6, 132 N.M. 592, 52 P.3d 964. “All reasonable
15 inferences in support of the district court’s decision will be indulged in, and all
16 inferences or evidence to the contrary will be disregarded.” *State v. Jason L.*, 2000-
17 NMSC-018, ¶ 10, 129 N.M. 119, 2 P.3d 856 (alterations, internal quotation marks,
18 and citation omitted). We review the application of law to this deferential view of
19 the evidence de novo. *State v. Neal*, 2007-NMSC-043, ¶ 15, 142 N.M. 176, 164 P.3d
20 57 (explaining that a ruling on a motion to suppress is a “mixed question of law and

1 fact wherein we review any factual questions under a substantial evidence standard
2 and we review the application of law to the facts de novo” (internal quotation marks
3 and citation omitted)). In her memorandum in opposition, Defendant does not
4 specifically dispute the facts upon which our proposed analysis relied; rather, she
5 claims that the evidence was more equivocal than our notice reflected. Defendant
6 asks us to consider aspects of her driving that did not suggest impairment, how she
7 did not cause any injuries or damage, and that there were other explanations for her
8 driving than alcohol impairment. [MIO 11-13] Defendant also asks us to consider
9 that the officer’s testimony suggests that he wrongfully believed that if a driver
10 crossed the line of a traffic lane, then it is a per se violation of NMSA 1978, Section
11 66-7-317(A) (1978) (“[A] vehicle shall be driven as nearly as practicable entirely
12 within a single lane and shall not be moved from such lane until the driver has first
13 ascertained that such movement can be made with safety.”). [MIO 10-11]

14 {4} With these alternative considerations, Defendant’s requests ask this Court to
15 ignore our standard of review. “When acting as the fact-finder at a suppression
16 hearing, the district court must evaluate the credibility of witnesses and determine
17 the weight to which the evidence is entitled.” *State v. Martinez*, 2018-NMSC-007,
18 ¶ 14, 410 P.3d 186. On appeal, we resolve conflicts in the evidence and inferences
19 drawn therefrom in favor of the conclusion reached and do not reweigh the evidence.
20 *See id.*

1 {5} Additionally, even if the officer testified that where a driver crosses a line, it
2 constitutes a traffic violation, this was not the sole reason the officer provided to
3 warrant the traffic stop. As we set forth in our notice, the officer observed
4 Defendant's vehicle just after midnight, stopped at a red light in the middle of a
5 pedestrian crosswalk. [RP 40] The officer continued to observe Defendant's vehicle
6 and saw her swerving from right to left within the lane, then cross over onto the
7 shoulder, nearly striking a delineator pole. [RP 40-41] Then, when making a right-
8 hand turn, Defendant bumped the cement curb with her tires, which bounced the
9 vehicle back onto the roadway. [RP 41] In the absence of any evidence that there
10 was an environmental reason to explain Defendant's swerving and her failure to stay
11 entirely within the traffic lane, we proposed to hold that Defendant's crossing of the
12 lane, nearly hitting a pole, and bumping the curb were not safely done under the
13 circumstances and provided the officer reasonable grounds to suspect that Defendant
14 was driving unsafely while failing to maintain a traffic lane, in violation of the
15 statute. *See State v. Siqueiros-Valenzuela*, 2017-NMCA-074, ¶ 17, 404 P.3d 782
16 (construing Section 66-7-317(A) to require "a driver to maintain [their] vehicle in a
17 single lane—as closely as feasible—by utilizing good judgment and taking into
18 account the safety considerations of a particular situation"); *id.* ¶¶ 18-19 (providing
19 that under this statutory provision, a driver may momentarily leave their lane of
20 travel, where the circumstances make it practicable).

1 {6} Defendant's response does not refer us to any evidence of an environmental
2 or other safety reason for Defendant's departure from her lane, which would have
3 been known to the officer before initiating the stop. Viewing the totality of the
4 evidence in the light most favorable to the district court's denial of suppression, we
5 conclude that the officer had reasonable suspicion to warrant the traffic stop.

6 {7} Lastly, Defendant contends the officer lacked probable cause to arrest
7 Defendant for DWI to the slightest degree. [MIO 15-19] Again, Defendant's
8 response to our notice does not specifically dispute the facts upon which our
9 proposed analysis relied to support probable cause; rather, she claims that the
10 evidence was more equivocal than our notice reflected. [Id.] Defendant asks us to
11 consider the following: while she was driving, she was on the phone with her
12 boyfriend and was upset after a fight with her mother; she exited the vehicle with no
13 problem; she was cooperative, did not slur her speech; produced the requisite
14 documentation; she performed better on the standard field sobriety tests (SFSTs)
15 than our notice suggested; and she had a blister on her toe, which could explain some
16 of her performance on the FSTs. [MIO 16-17]

17 {8} However, like reasonable suspicion, when assessing the evidence that
18 supports probable cause, we apply a substantial evidence standard to the facts and
19 review the legal conclusions de novo. See *Urioste*, 2002-NMSC-023, ¶ 6. Thus,
20 "[w]e view the facts in the manner most favorable to the prevailing party and defer

1 to the [trial] court’s findings of fact if substantial evidence exists to support those
2 findings.” *Id.* It is for the district court to “determine the weight to which the
3 evidence is entitled. *Martinez*, 2018-NMSC-007, ¶ 14. With these alternative
4 considerations for probable cause, Defendant’s requests, again, ask us to ignore our
5 standard of review, which we will not do.

6 {9} As our notice described, during the encounter, the officer smelled alcohol on
7 Defendant’s breath, and saw that Defendant had bloodshot, watery eyes. [RP 41, 67]
8 Defendant admitted to drinking two beers at a brewery from which she was driving
9 home. [RP 41; MIO 16] Because Defendant reported that she had a blister, the officer
10 performed two alternative tests. [RP 42] During her performance on the SFSTs,
11 Defendant had difficulty maintaining her balance when listening to the officer [RP
12 42, 67]; she also stepped off the line and missed walking heel-to-toe during the walk-
13 and-turn test; she swayed; and she failed to follow directions on at least three tests.
14 [RP 42-43, 65-67] Even considering that Defendant had a blister, that would not
15 explain her swaying and failure to follow directions. We conclude that these
16 observations, in addition to Defendant’s driving, provided the officer with probable
17 cause to arrest Defendant for DWI. *See State v. Granillo-Macias*, 2008-NMCA-021,
18 ¶ 12, 143 N.M. 455, 176 P.3d 1187 (holding that the odor of alcohol, lack of balance
19 at the vehicle, and failure to satisfactorily perform SFSTs supported an objectively
20 reasonable belief that the defendant had been driving while intoxicated and thus

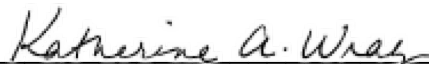
1 constituted probable cause to arrest the defendant); *State v. Ruiz*, 1995-NMCA-098,
2 ¶¶ 3-4, 24, 120 N.M. 534, 903 P.2d 845 (holding that probable cause existed where
3 the police officers observed the defendant speeding and weaving, the defendant
4 admitted to drinking, and the officer noticed bloodshot, watery eyes, slurred speech,
5 and a smell of alcohol, and the results of SFSTs were mixed), *abrogated on other*
6 *grounds by State v. Martinez*, 2007-NMSC-025, 141 N.M. 713, 160 P.3d 894; *State*
7 *v. Hernandez*, 1980-NMCA-138, ¶ 8, 95 N.M. 125, 619 P.2d 570 (concluding that
8 the officer had probable cause to arrest when the defendant had driven in the officer's
9 presence, and the officer noted that the defendant smelled of alcohol and had slurred
10 speech). Because we conclude that the officer had reasonable suspicion to stop
11 Defendant and probable cause to arrest Defendant for DWI, we affirm the district
12 court's order denying Defendant's motion to suppress the evidence.

13 {10} Given that Defendant has not responded to the remaining issues addressed in
14 our proposed analysis, those issues are deemed abandoned. *See State v. Salenas*,
15 1991-NMCA-056, ¶ 2, 112 N.M. 268, 814 P.2d 136 (stating that where a party has
16 not responded to the Court's proposed disposition of an issue, that issue is deemed
17 abandoned). We also note that Defendant does not oppose our proposed remand to
18 the metropolitan court for correction of its judgment and to reflect that Defendant
19 was found guilty of the charged offenses pursuant to a bench trial. Thus, we deem
20 the lack of opposition to our proposed remand as an acceptance of the disposition.

1 *Cf. id.; Frick v. Veazey*, 1993-NMCA-119, ¶ 2, 116 N.M. 246, 861 P.2d 287
2 (“Failure to file a memorandum in opposition constitutes acceptance of the
3 disposition proposed in the calendar notice.”).

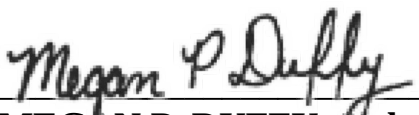
4 {11} For the foregoing reasons, we affirm Defendant’s convictions and remand for
5 the metropolitan court to correct its judgment and sentence in the manner described
6 above.

7 {12} **IT IS SO ORDERED.**

8 
9 **KATHERINE A. WRAY, Judge**

10 **WE CONCUR:**

11 
12 **JENNIFER L. ATTREP, Judge**

13 
14 **MEGAN P. DUFFY, Judge**