

<b>STATE V. BEDAW</b>
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**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
**v.**  
**MICHAEL BEDAW,**  
Defendant-Appellant.

NO. 29,584

COURT OF APPEALS OF NEW MEXICO

September 14, 2009

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY, Teddy L. Hartley,  
District Judge

**COUNSEL**

Gary K. King, Attorney General, Santa Fe, NM, for Appellee

Hugh W. Dangler, Chief Public Defender, Allison H. Jaramillo, Assistant Appellate  
Defender, Santa Fe, NM, for Appellant

**JUDGES**

MICHAEL E. VIGIL, Judge. WE CONCUR: LINDA M. VANZI, Judge, TIMOTHY L.  
GARCIA, Judge

**AUTHOR:** MICHAEL E. VIGIL

**MEMORANDUM OPINION**

**VIGIL, Judge.**

Defendant appeals the revocation of his probation. In our notice, we proposed to affirm. Defendant has timely responded. We have considered his arguments and finding them unpersuasive, we affirm.

On appeal, Defendant attacks the sufficiency of the evidence to support the probation revocation. In our notice, we stated the standard of review, pointing out that the violation needed proof only to incline a reasonable and impartial mind to the belief that Defendant violated the terms of his probation. *State v. Martinez*, 108 N.M. 604, 606, 775 P.2d 1321, 1323 (Ct. App. 1989). Defendant acknowledges this, but asserts that due process requires that the violations be established to a reasonable certainty. We agree. However, we conclude that the evidence presented satisfied due process.

Defendant argues that the district court findings regarding his violation of the conditions of probation were based on testimony lacking personal knowledge and testimony that may not have been competent. Even assuming that such testimony should be ignored, Defendant's probation officer testified about the violations and that testimony is sufficient to support the revocation.

For the reasons stated herein and in the calendar notice, we affirm the revocation of Defendant's probation.

**IT IS SO ORDERED.**

**MICHAEL E. VIGIL, Judge**

**WE CONCUR:**

**LINDA M. VANZI, Judge**

**TIMOTHY L. GARCIA, Judge**