

<b>STATE V. FAULKNER</b>
--------------------------

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**STATE OF NEW MEXICO,  
Plaintiff-Appellee,  
v.  
BOBBY FAULKNER,  
Defendant-Appellant.**

No. 33,582

COURT OF APPEALS OF NEW MEXICO

October 23, 2014

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Stan Whitaker,  
District Judge

**COUNSEL**

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

Jorge A. Alvarado, Chief Public Defender, Santa Fe, NM, Sergio J. Viscoli, Assistant  
Appellate Defender, Albuquerque, NM, for Appellant

**JUDGES**

CYNTHIA A. FRY, Judge. WE CONCUR: JAMES J. WECHSLER, Judge, JONATHAN  
B. SUTIN, Judge

**AUTHOR:** CYNTHIA A. FRY

**MEMORANDUM OPINION**

**FRY, Judge.**

{1} Defendant has appealed his conviction for DWI. We previously issued a notice of proposed summary disposition in which we proposed to uphold the conviction.

Defendant has filed a memorandum in opposition. After due consideration, we remain unpersuaded. We therefore affirm.

**{2}** First, Defendant renews his challenge to the constitutionality of the roadblock. [MIO 19-21] As we previously observed in the notice of proposed summary disposition, the district court described the relevant background information with care. [RP 121-23, 125] The district court also identified and applied the relevant authorities in a thorough, thoughtful, and well-reasoned fashion. [RP 126-29] All of the points raised by Defendant in the memorandum in opposition are addressed therein. We concur in the district court's analysis, upon which we perceive neither need nor basis for improvement. We therefore reject Defendant's argument.

**{3}** Defendant also challenges the sufficiency of the evidence to support his conviction. [MIO 22-24] As we previously observed, the various indicia of intoxication, together with Defendant's breath-alcohol test results, supply ample support for the conviction. In his memorandum in opposition Defendant focuses on countervailing considerations and contends that State's evidence was not sufficiently compelling. [MIO 22-24] "However, as a reviewing court, we do not reweigh the evidence or attempt to draw alternative inferences from the evidence." See generally *State v. Estrada*, 2001-NMCA-034, ¶ 41, 130 N.M. 358, 24 P.3d 793; see also *State v. Montoya*, 2005-NMCA-078, ¶ 3, 137 N.M. 713, 114 P.3d 393 (observing that "the evidence is not to be reviewed with a divide-and-conquer mentality . . . [ and w]e do not reweigh the evidence or substitute our judgment for that of the jury"). We therefore remain unpersuaded by Defendant's assertion of error.

**{4}** Accordingly, for the reasons stated in our notice of proposed summary disposition and above, we affirm.

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

**CYNTHIA A. FRY, Judge**

**WE CONCUR:**

**JAMES J. WECHSLER, Judge**

**JONATHAN B. SUTIN, Judge**