

STATE V. GAMBOA

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JOE A. GAMBOA,
Defendant-Appellant.**

No. A-1-CA-35915

COURT OF APPEALS OF NEW MEXICO

December 11, 2017

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY, James M. Hudson,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: LINDA M. VANZI, Chief Judge, J. MILES HANISEE, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

{1} Defendant Joe A. Gamboa appeals his convictions of aggravated battery of a household member, false imprisonment, and two counts of battery of a household member, arguing that the evidence offered at trial was insufficient to support his

convictions. [DS 2, 7] This Court's calendar notice proposed to affirm, noting that Defendant's docketing statement made only a generalized assertion that the evidence was insufficient without directing our attention to any specific fact that the State failed to prove at trial. [CN 3, 4] Defendant has filed a memorandum in opposition to that proposed summary disposition in which he still does not identify any specific unsupported factual finding but does now challenge the credibility of the State's evidence. [MIO 6-7] Having duly considered that memorandum, we remain unpersuaded and now affirm.

{2} In his memorandum, Defendant challenges the credibility of one of the State's witnesses and suggests shortcomings in both the State's handling of evidence and the thoroughness of the State's investigation. [MIO 6] Because Defendant is challenging the sufficiency of the evidence, however, the sole question before this Court is whether there was substantial evidence to support the findings made by the district court. See *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829 (noting that evidence contrary to findings reached below does not provide a basis for reversal); *State v. Roybal*, 1992-NMCA-114, ¶ 9, 115 N.M. 27, 846 P.2d 333 (noting that it is for the finder of fact to evaluate the weight of the evidence, to assess the credibility of the witnesses, and to resolve any conflicts in the evidence). It is not the proper role of this Court to assess the credibility of witnesses, as that function is the sole province of the fact-finder at trial. See *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482

{3} At Defendant's trial, the facts were determined by a jury that had the opportunity to observe the testimony of the witnesses, and it is the limited role of this Court to determine whether that testimony—if accepted as true—was sufficient to support a conviction. Thus, this Court “must 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. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176. Because the State presented evidence of every element of the crimes charged and a reasonable jury could have found, beyond a reasonable doubt, that Defendant committed those crimes, we affirm the judgment and sentence entered below.

{4} IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

LINDA M. VANZI, Chief Judge

J. MILES HANISEE, Judge