

STATE V. JAMES

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
DARREN LOUIS JAMES,
Defendant-Appellant,**

NO. 34,413

COURT OF APPEALS OF NEW MEXICO

December 3, 2015

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY, Stephen K. Quinn,
District Judge

COUNSEL

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

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Douglas Wood III, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: RODERICK T. KENNEDY, Judge, LINDA
M. VANZI, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant appeals his conviction for failure to appear. We issued a calendar notice proposing to affirm. Defendant has responded with a memorandum in opposition. We affirm.

{2} In this appeal, Defendant has claimed that the district court wrongfully excluded evidence relating to his mental illness, which he claimed was the cause of his failure to appear. We review the district court’s ruling for an abuse of discretion. See *State v. Harper*, 2011-NMSC-044, ¶ 16, 150 N.M. 745, 266 P.3d 25. “An abuse of discretion is found when the trial court’s decision is contrary to logic and reason.” *Davila v. Bodelson*, 1985-NMCA-072, ¶ 12, 103 N.M. 243, 704 P.2d 1119.

{3} Defendant sought the admission of the testimony of Kim Devou, who had treated Defendant for his mental illness. [MIO 1] There is no question that Defendant’s proffered evidence was relevant to his defense. See *State v. Balderama*, 2004-NMSC-008, ¶ 41, 135 N.M. 329, 88 P.3d 845 (concluding that the exclusion of testimony that made the defendant’s theory of the case and lack of requisite intent more probable was not harmless error). However, in this case there was a late disclosure of this witness and exhibits relating to her testimony. See Rule 5-502 NMRA. Specifically, on the day of trial, the State objected, stating that the witness had “just” been disclosed, and they would need to get their own expert if she was going to testify in great detail. [RP 145] The district court allowed the expert to testify, but limited her testimony to her clinical observations during the last five sessions she had seen Defendant. [RP 149] The court also excluded exhibits relating to his medications, because this would have triggered the need for the State to procure its own expert. [RP 149] The expert then testified about her clinical observations of Defendant in the period preceding the date he failed to appear. [RP 151]

{4} Defendant’s memorandum in opposition refers us to *Harper*, 2011-NMSC-044, for the proposition that exclusion of a witness for violation of a discovery order is generally too extreme of a sanction. [MIO 6] However, *Harper* involved the complete exclusion of two witnesses. *Id.* ¶ 1. In contrast, the witness here was allowed to testify to matters relating to the core of Defendant’s defense—that Defendant had a mental illness that prevented him from forming the requisite intent in this case. As such, we conclude that it was not an abuse of discretion to limit further evidence under these circumstances. See *State v. McDaniel*, 2004-NMCA-022, ¶ 6, 135 N.M. 84, 84 P.3d 701 (stating that remedies for violation of discovery rules or orders are discretionary with the trial court).

{5} For the reasons set forth above, we affirm.

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

M. MONICA ZAMORA, Judge

WE CONCUR:

RODERICK T. KENNEDY, Judge

LINDA M. VANZI, Judge