

STATE V. MALDONADO

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
CHRISTOPHER MALDONADO,
Defendant-Appellant.**

No. 36,145

COURT OF APPEALS OF NEW MEXICO

May 18, 2017

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Fernando R.
Macias, 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

J. MILES HANISEE, Judge. WE CONCUR: TIMOTHY L. GARCIA, Judge, M. MONICA ZAMORA, Judge

AUTHOR: J. MILES HANISEE

MEMORANDUM OPINION

HANISEE Judge.

{1} Defendant has appealed his conviction for tampering with evidence. We issued a notice of proposed summary disposition in which we proposed to affirm. Defendant has

filed a memorandum in opposition, which we have duly considered. Because we remain unpersuaded, we affirm.

{2} We previously described the pertinent background and applicable principles of law in the notice of proposed summary disposition. We will avoid undue repetition here. Instead, we will focus on the content of the memorandum in opposition.

{3} Defendant continues to challenge the sufficiency of the evidence. [MIO 3-7] However, as we previously observed, the testimony of Mr. Ruther and the law enforcement officers who responded to the scene, together with Defendant's admission to having placed the knife under the sink in order to avoid law enforcement suspicion that he had assaulted his landlord, is sufficient to establish all of the essential elements. [DS 2-3; MIO 1-2] See generally NMSA 1978, § 30-22-5(A) (2003) (prohibiting tampering with evidence); UJI 14-2241 NMRA (defining the elements of the offense).

{4} In his memorandum in opposition Defendant contends that the element of the offense which requires specific intent to prevent prosecution should be deemed unsatisfied, because he acted with the intent to prevent the officers from believing that he had committed an offense for which he was ultimately acquitted. [MIO 5-6] However, the statute prohibits the hiding of evidence with the intent to prevent *prosecution*, not conviction. See *id.* Moreover, as we observed in the notice of proposed summary disposition, Defendant's acquittal of the underlying charge of aggravated assault with a deadly weapon does not undermine the validity of the conviction for tampering. See *State v. Alvarado*, 2012-NMCA-089, ¶ 8, ___ P.3d ___ (observing that "a defendant need not be convicted of the underlying crime to be convicted of tampering with evidence of that crime").

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

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

J. MILES HANISEE, Judge

WE CONCUR:

TIMOTHY L. GARCIA, Judge

M. MONICA ZAMORA, Judge