

STATE V. RAMIREZ

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
ANDREW RAMIREZ,
Defendant-Appellant.

NO. 32,517

COURT OF APPEALS OF NEW MEXICO

April 29, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Charles W.
Brown, District Judge

COUNSEL

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

Bennett J. Baur, Chief Public Defender, Santa Fe, NM, Vicki W. Zelle, Assistant Appellate Defender, Albuquerque, NM, for Appellant

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
MICHAEL D. BUSTAMANTE, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

Ramirez appeals a district court order affirming his metropolitan court conviction for aggravated driving while intoxicated. In our notice of proposed summary disposition, we

proposed to affirm. Ramirez has filed a memorandum in opposition, which we have duly considered. As we are not persuaded by Ramirez's arguments, we affirm.

In our notice of proposed summary disposition, we proposed to hold that, viewing the evidence in the light most favorable to the verdict and drawing all reasonable inferences therefrom, there was sufficient evidence to support Ramirez's conviction beyond a reasonable doubt. See *State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176 ("In reviewing the sufficiency of the evidence, we 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.").

In Ramirez's memorandum in opposition, he continues to argue that there was insufficient evidence because the jury could have drawn different inferences from the facts supporting impairment than it did and because one of the officers was equivocal about whether Ramirez might have asked to take a breath test after he initially refused. Ramirez's arguments essentially ask this Court to reweigh the evidence, which we will not do. See *State v. Sutphin*, 107 N.M. 126, 131, 753 P.2d 1314, 1319 (1988) (stating that an appellate court "does not weigh the evidence and may not substitute its judgment for that of the fact finder so long as there is sufficient evidence to support the verdict").

Therefore, for the reasons stated in this opinion and in our notice of proposed summary disposition, we affirm.

IT IS SO ORDERED.

LINDA M. VANZI, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

MICHAEL D. BUSTAMANTE, Judge