

STATE V. TRUJILLO

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MANUEL TRUJILLO,
Defendant-Appellant.

NO. 30,042

COURT OF APPEALS OF NEW MEXICO

March 12, 2010

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

COUNSEL

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

Hugh W. Dangler, Chief Public Defender, Karl Erich Martell, Assistant Appellate
Defender, Santa Fe, NM, for Appellant

JUDGES

CYNTHIA A. FRY, Chief Judge. WE CONCUR: JAMES J. WECHSLER, Judge, LINDA
M. VANZI, Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Chief Judge.

Defendant challenges the sufficiency of the evidence to support his conviction after a jury trial for possession of a controlled substance, contrary to NMSA 1978, Section 30-31-23 (1995) (amended 2006). [DS 2] Defendant raises this issue pursuant to *State v.*

Franklin, 78 N.M. 127, 129, 428 P.2d 982, 984 (1967) and *State v. Boyer*, 103 N.M. 655, 658-60, 712 P.2d 1, 4-6 (Ct. App. 1985). [DS 3; MIO 1] We issued a calendar notice proposing to summarily affirm Defendant's conviction. Defendant filed a timely memorandum in opposition, which we have duly considered. We affirm.

DISCUSSION

"Substantial evidence review requires analysis of whether direct or circumstantial substantial evidence exists and supports a verdict of guilt beyond a reasonable doubt with respect to every element essential for conviction. We determine whether a rational [fact finder] could have found that each element of the crime was established beyond a reasonable doubt." *State v. Kent*, 2006-NMCA-134, ¶ 10, 140 N.M. 606, 145 P.3d 86 (citation omitted). On appeal, we view the evidence in the light most favorable to the verdict, resolving all conflicts and indulging all reasonable inferences in favor of the verdict. *State v. Apodaca*, 118 N.M. 762, 765-66, 887 P.2d 756, 759-60 (1994).

In order to convict Defendant of possession of a controlled substance, the State was required to prove beyond a reasonable doubt that (1) Defendant had methamphetamine in his possession, and (2) he knew it was methamphetamine. See UJI 14-3102 NMRA. [RP 95] As discussed in greater detail in the calendar notice, a police officer testified that he found two pipes and a plastic bag with residue on Defendant upon his arrest. [DS 2; RP 110-11] The evidence tested positive for methamphetamine. [RP 110-14] In addition, Defendant testified that he admitted to using methamphetamine and to having a pipe used for smoking methamphetamine. [RP 115-16] Defendant's response does not challenge our understanding of the evidence. We remain persuaded that the State introduced sufficient evidence that Defendant had methamphetamine in his possession and that he knew it was methamphetamine.

Defendant continues to argue that he presented an alternate and credible version of the events. [MIO 3] In his testimony, Defendant disputed that the pipe or bag contained any trace of a controlled substance and suggested that the officer may have tampered with the evidence. [MIO 1] Defendant also claimed that the officer threatened to charge Defendant with possession after he refused to reveal the name of his drug supplier. [MIO 1] As we stated in our calendar notice, the officer and the forensic drug chemist testified that there was residue in the pipes and plastic bags that tested positive for methamphetamine. [RP 110-14] In addition, the officer testified about how he handled the evidence. [RP 110-11] In light of the other evidence, the jury was free to disregard Defendant's version of events. See *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (recognizing that it is for the fact finder to make credibility determinations and resolve any conflict in witness testimony). We remain persuaded that there was sufficient evidence to support Defendant's conviction for possession of methamphetamine.

CONCLUSION

We affirm.

IT IS SO ORDERED.

CYNTHIA A. FRY, Chief Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

LINDA M. VANZI, Judge