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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-43051

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

MATTHEW CHAVEZ,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF CIBOLA COUNTY
Amanda Sanchez Villalobos, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
MJ Edge, Associate Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

ATTREP, Judge.

{1} Defendant appeals from his conviction, following a jury trial, for aggravated fleeing a law enforcement officer, contrary to NMSA 1978, Section 30-22-1.1 (2022). We issued a calendar notice proposing to affirm. Defendant has filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} Defendant challenges the sufficiency of the evidence to support his conviction for aggravated fleeing a law enforcement officer [MIO 2-5], which we proposed to affirm in our calendar notice. In his memorandum in opposition, Defendant maintains that there

was insufficient evidence to support his conviction, specifically arguing that the State failed to prove he drove in a willful and careless manner that endangered the life of another. [Id.] Defendant argues that the statutory language under NMSA 1978, Section 30-22-1.1 (2022) requires actual endangerment [MIO 3-4] and that because the officer testified that he did not see any other vehicles or any pedestrians during the 200-yard span that his emergency lights were activated, there was insufficient evidence he drove in a manner that endangered the life of another. [MIO 2; RP 114]

{3} We stated in our calendar notice, and Defendant acknowledges in his memorandum in opposition, that our Supreme Court in *State v. Vest*, 2021-NMSC-020, ¶ 19, 488 P.3d 626, ruled that the statutory language under Section 30-22-1.1 does not require actual endangerment. [CN 4-5; MIO 4] Defendant points to the dissent in *Vest* and argues that “[t]his case implicates and demonstrates the logic of Justice Thom[son]’s dissent.” [MIO 4] However, because there is New Mexico Supreme Court precedent specifically acknowledging that proof of actual endangerment is not required, this Court is in no position to deviate from that precedent. See *Vest*, 2021-NMSC-020, ¶ 19 (stating that Section 30-22-1.1 “does not require that an identifiable person was actually endangered as a result of the defendant’s flight from law enforcement”); see also *Alexander v. Delgado*, 1973-NMSC-030, ¶¶ 8-10, 84 N.M. 717, 507 P.2d 778 (holding that the Court of Appeals is bound by, and may not overrule or deviate from New Mexico Supreme Court precedent).

{4} For the reasons stated in our notice of proposed disposition and herein, we affirm.

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

JENNIFER L. ATTREP, Judge

WE CONCUR:

ZACHARY A. IVES, Judge

SHAMMARA H. HENDERSON, Judge