

1 disposition proposing to affirm, and Defendant has responded with a memorandum
2 in opposition. Having carefully considered the arguments raised in the memorandum
3 in opposition, we continue to believe that affirmance is appropriate. Therefore, for the
4 reasons stated below and in our notice of proposed disposition, we affirm.

5 {2} Defendant’s motion to suppress was based on his contention that the arresting
6 officer lacked probable cause to arrest him for DWI. The officer had probable cause
7 to arrest for DWI if it was objectively reasonable for the officer to believe that
8 Defendant had been driving while he was impaired to the slightest degree. *See State*
9 *v. Granillo–Macias*, 2008-NMCA-021, ¶ 9, 143 N.M. 455, 176 P.3d 1187. In the
10 notice of proposed disposition we pointed out the evidence favoring the district court’s
11 determination that such probable cause existed: (1) the arresting deputy noted the odor
12 of alcohol on Defendant’s breath, as well as the fact that his eyes were bloodshot and
13 glassy; (2) Defendant admitted he had consumed three shots of Jagermeister; (3)
14 Defendant exhibited four out of a possible six “clues” on the HGN test; and (4)
15 Defendant exhibited two of a possible eight “clues” on the walk-and-turn test.

16 {3} In the memorandum in opposition Defendant challenges our reliance on the
17 above evidence. He points out that a different officer, who encountered Defendant just
18 before the arresting officer did, testified that he did not observe an odor of alcohol
19 emitting from Defendant, and said nothing about glassy or bloodshot eyes. [MIO 2]

1 He also emphasizes the fact that he told the arresting officer he had consumed the
2 three shots of Jagermeister three hours before he was stopped. [MIO 6] In addition,
3 he notes that the arresting officer admitted that although she administered field-
4 sobriety tests (FSTs) such as the HGN test and the walk-and-turn test, she did not
5 really understand how the FSTs work. [MIO 6] Finally, he points to the second
6 officer's testimony that the officer did not observe any "bad" driving on Defendant's
7 part. [MIO 6] In sum, Defendant contends that the conflicting testimony of the
8 officers, as well as the arresting officer's admission that she lacked an understanding
9 of how the FSTs work, rendered the arrest unconstitutional as not supported by
10 probable cause.

11 {4} As we discussed in the notice of proposed disposition, on appeal from a
12 suppression decision we view the evidence in the light most favorable to the district
13 court's decision. *State v. Peterson*, 2014-NMCA-008, ¶ 4, 315 P.3d 354. This means
14 we disregard any conflicting evidence and draw all inferences from the evidence in
15 favor of the district court's determination. *Id.* Defendant's arguments concerning the
16 conflicting testimony provided by the officers, therefore, are to no avail; the district
17 court was entitled to believe that the arresting officer smelled alcohol on Defendant's
18 breath and observed glassy and bloodshot eyes, and in this appeal we must accept the
19 court's finding to that effect as fact. Similarly, even though the arresting officer did

1 not understand the science underlying the FSTs, this does not mean she necessarily
2 failed to administer the tests correctly, and the district court was entitled to accept her
3 testimony that Defendant exhibited “clues” indicating that he failed certain aspects of
4 the FSTs. Finally, the district court was entitled to disbelieve Defendant’s assertion
5 that it had been three hours since his last shot of Jagermeister.

6 {5} In sum, this is simply a case of conflicting evidence that was up to the district
7 court to resolve. The court determined that the facts known to the arresting officer
8 were sufficient to provide probable cause to arrest Defendant for driving under the
9 influence, and viewing the evidence in the light most favorable to the court’s
10 determination, we agree. *See State v. Sanchez*, 2001-NMCA-109, ¶¶ 8, 12, 131 N.M.
11 355, 36 P.3d 446 (holding that the officer had probable cause for arrest where the
12 defendant smelled of alcohol, had bloodshot and watery eyes, and refused to take the
13 FSTs).

14 {6} Based on the foregoing discussion as well as the analysis set out in the notice
15 of proposed disposition, we affirm.

16 {7} **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

19 **WE CONCUR:**

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2 **MICHAEL D. BUSTAMANTE, Judge**

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4 **LINDA M. VANZI, Judge**