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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.

NO. 32,484

5 **MICHAEL TOWLER,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY**

8 **Jane Schuler Gray, District Judge**

9 Gary K. King, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Acting Chief Public Defender

13 Kathleen T. Baldrige, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **VANZI, Judge.**

18 Defendant-Appellant, Michael Towler, appeals from his conviction on one

19 count of larceny over \$500, a fourth degree felony, following a bench trial. [RP 75,

1 MIO 1] We issued a notice proposing to summarily affirm, and Defendant filed a
2 memorandum in opposition. We remain unpersuaded by Defendant’s argument and
3 affirm.

4 On September 9, 2011, Defendant stole a discarded cattle guard and sold it to
5 a local scrap yard for \$254.80. [MIO 1-2] Approximately one week later, Defendant
6 purchased the cattle guard back from the scrap yard for \$551.80. [MIO 2-3] At trial,
7 the owner of the cattle guard testified that the fair market value of the cattle guard was
8 \$10,000. [MIO 3] Upon questioning from the judge, the owner testified that the fair
9 market value of the cattle guard was \$2,500. [MIO 3] Defendant was convicted of
10 larceny over \$500.

11 Defendant continues to argue that there was insufficient evidence to support his
12 conviction because there was insufficient evidence to show that the scrap metal he
13 stole had a market value of over \$500. [MIO 4-5] In reviewing the sufficiency of the
14 evidence, “we view the evidence in the light most favorable to the verdict, indulging
15 all reasonable inferences and resolving all conflicts in the evidence in favor of the
16 verdict[.]” *State v. Archuleta*, 2012-NMCA-007, ¶ 15, 269 P.3d 924. We then “make
17 a legal determination of whether the evidence viewed in this matter could justify a
18 finding by any rational trier of fact that each element of the crime charged has been
19 established beyond a reasonable doubt.” *Id.* (internal quotation marks and citation
20 omitted). “The question is whether the district court’s decision is supported by

1 substantial evidence, not whether the district court could have reached a different
2 conclusion.” *Id.* (alteration, internal quotations marks, and citation omitted).

3 We conclude that the district court’s decision was supported by substantial
4 evidence. Specifically, the owner of the cattle guard testified that the cattle guard had
5 a fair market value of \$2,500, and Defendant admitted to purchasing the cattle guard
6 from the scrap yard for \$551.80. As we explained in our notice, to the extent there
7 was a conflict in the evidence regarding the market value of the cattle guard, we do
8 not weigh the evidence on appeal, but defer to the district court. *See State v. Salas*,
9 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (“We defer to the district court
10 when it weighs the credibility of witnesses and resolves conflicts in witness
11 testimony.”).

12 For the reasons stated above and in our notice, we affirm Defendant’s
13 conviction.

14 **IT IS SO ORDERED.**

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16 **LINDA M. VANZI, Judge**

17 **WE CONCUR:**

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2 **JAMES, J. WECHSLER, Judge**

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4 **MICHAEL E. VIGIL, Judge**