



1 {1} Defendant, in a self-represented capacity, appeals his conviction for the traffic  
2 offense of no seatbelt, *see* NMSA 1978, § 66-7-372 (2001), following a magistrate  
3 court conviction and de novo trial in district court. [CN 1; RP 29] Our notice proposed  
4 to affirm, and Defendant filed a memorandum in opposition. We remain unpersuaded  
5 by Defendant’s arguments and therefore affirm.

6 {2} Defendant continues to challenge the sufficiency of the evidence to support his  
7 conviction. [DS 1; MIO 3] In his memorandum in opposition, Defendant continues to  
8 assert that the officer’s testimony was not credible. In doing so, Defendant argues that  
9 the officer’s testimony was “contradicted by his own physical and direct admission.”

10 [MIO 3] Defendant contends that even though the officer testified that he could see  
11 whether Defendant was wearing a seat belt “by observing the vertical line above [his]  
12 left shoulder,” that statement was contradicted by the officer’s other testimony that the  
13 traffic on the road did not enable the officer to later see Defendant put on his seat belt.

14 [MIO 3] Defendant’s argument is premised on the central contention that the  
15 district court erred by believing the officer’s version of the facts, which is a challenge  
16 to the credibility of witnesses and weight assigned by the fact-finder to the evidence  
17 presented. However, as we explained in our calendar notice, the district court, as  
18 finder of fact, weighs the credibility of witnesses and resolves conflicts in evidence  
19 to reach factual determinations, and on appeal, this Court does not re-weigh the

1 evidence or draw our own conclusions about the credibility of witnesses. *See*  
2 *generally Chapman v. Varela*, 2009-NMSC-041, ¶ 5, 146 N.M. 680, 213 P.3d 1109  
3 (“[T]he duty to weigh the credibility of witnesses and to resolve conflicts in the  
4 evidence lies with the trial court, not the appellate court.” (internal quotation marks  
5 and citation omitted)). In other words, the district court determines what the facts are  
6 based on the evidence presented by the parties. In doing so, the district court was  
7 entitled to reject Defendant’s version of the facts. *See State v. Rojo*, 1999-NMSC-001,  
8 ¶ 19, 126 N.M. 438, 971 P.2d 829 (holding that the fact-finder is free to reject the  
9 defendant’s version of events); *State v. Mora*, 1997-NMSC-060, ¶ 27, 124 N.M. 346,  
10 950 P.2d 789 (holding that “[t]he reviewing court does not weigh the evidence or  
11 substitute its judgment for that of the fact finder as long as there is sufficient evidence  
12 to support the verdict”), *abrogated on other grounds as recognized by Kersey v.*  
13 *Hatch*, 2010-NMSC-020, ¶ 17, 148 N.M. 381, 237 P.3d 683. Accordingly,  
14 Defendant’s assertions do not change the result proposed in our calendar notice.

15 {3} Our notice also provided that the docketing statement did not provide this Court  
16 with sufficient facts to fully address this issue, and absent such information, we  
17 presume that the conviction was supported by the evidence. *See Reeves v. Wimberly*,  
18 1988-NMCA-038, ¶ 21, 107 N.M. 231, 755 P.2d 75 (holding that “[u]pon a doubtful  
19 or deficient record, every presumption is indulged in favor of the correctness and

1 regularity of the trial court’s decision, and the appellate court will indulge in  
2 reasonable presumptions in support of the order entered”). [CN 3] In response,  
3 Defendant asserts that the proceedings below were recorded and suggests that this  
4 Court review the transcript of proceedings. [MIO 3] However, because this case has  
5 been placed on the summary calendar, it is not appropriate for a transcript of  
6 proceedings to be filed in this Court. *See* Rule 12-210(D)(1) NMRA (providing that  
7 if a case is placed on the summary calendar, “a transcript of proceedings shall not be  
8 filed”). In such instance, it is Defendant’s obligation to provide this Court with an  
9 adequate summary of the facts. *See, e.g.,* Rule 12-208(D)(3) NMRA (providing that  
10 the docketing statement shall contain a summary of “all facts material to a  
11 consideration of the issues presented”).

12 {4} Accordingly, for the reasons detailed in our notice and discussed above, we  
13 affirm.

14 {5} **IT IS SO ORDERED.**

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**MICHAEL D. BUSTAMANTE, Judge**

17 **WE CONCUR:**

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**RODERICK T. KENNEDY, Judge**

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2 **TIMOTHY L. GARCIA, Judge**