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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

2 STATE OF NEW MEXICO,

Plaintiff-Appellee,

4 v. NO. 34,340

5 DIANE BACA,

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Defendant-Appellant.

7 APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY 8 Jacqueline Flores, District Judge

- 9 Hector H. Balderas, Attorney General
- 10 Santa Fe, NM
- 11 for Appellee
- 12 Jorge A. Alvarado, Chief Public Defender
- 13 Vicki W. Zelle, Assistant Appellate Public Defender
- 14 Albuquerque, NM
- 15 for Appellant

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MEMORANDUM OPINION

WECHSLER, Judge.

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- Defendant has appealed from a conviction for DWI. We previously issued a notice of proposed summary disposition in which we proposed to uphold Defendant's conviction. Defendant has filed a memorandum in opposition. After due consideration, we remain unpersuaded. We therefore affirm.
- Defendant has raised a single issue, challenging the sufficiency of the evidence to establish that she was driving. [DS 10] As we previously observed in the notice of proposed summary disposition, the State presented evidence that Defendant repeatedly admitted that she had been driving. [DS 2-5, MIO 2] This is sufficient to support the factfinder's determination. *See*, *e.g.*, *State v. Orquiz*, 2012-NMCA-080, ¶4, 284 P.3d 418 (observing that although no witnesses testified to seeing the defendant driving, his admission at the scene was sufficient for a jury to infer that he actually drove).
- In her memorandum in opposition, Defendant focuses on the countervailing evidence, including the "physical evidence" (*i.e.*, the position of the driver's seat), [MIO 10] in support of her continuing assertion that the verdict is unsupported by the weight of the evidence. [MIO 9-11] However, insofar as we cannot re-weigh the evidence, Defendant's argument does not supply a basis for reversal. *See, e.g., State v. Owelicio*, 2011-NMCA-091, ¶ 34, 150 N.M. 528, 263 P.3d 305 (observing, in a similar case, that "[a]Ithough there was other evidence and testimony indicating that

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1	[the d]efendant was not the driver, the factfinder [was] entitled to weigh these
2	inconsistencies against [the d]efendant's admission and the evidence suggesting she
3	was driving[,]" and that on appeal this Court "will not disturb the factfinder's
4	determinations" on such matters). We therefore reject Defendant's assertion of error.
5	43 Accordingly, for the reasons stated in our notice of proposed summary
6	disposition and above, we affirm.
7	{5} IT IS SO ORDERED.
8 9	JAMES J. WECHSLER, Judge
10	WE CONCUR:
11 12	TIMOTHY L. GARCIA, Judge
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14	M. MONICA ZAMORA, Judge