



1 **WECHSLER, Judge.**

2 {1} Defendant has appealed from a conviction for DWI. We previously issued a  
3 notice of proposed summary disposition in which we proposed to uphold Defendant’s  
4 conviction. Defendant has filed a memorandum in opposition. After due consideration,  
5 we remain unpersuaded. We therefore affirm.

6 {2} Defendant has raised a single issue, challenging the sufficiency of the evidence  
7 to establish that she was driving. [DS 10] As we previously observed in the notice of  
8 proposed summary disposition, the State presented evidence that Defendant repeatedly  
9 admitted that she had been driving. [DS 2-5, MIO 2] This is sufficient to support the  
10 factfinder’s determination. *See, e.g., State v. Orquiz*, 2012-NMCA-080, ¶ 4, 284 P.3d  
11 418 (observing that although no witnesses testified to seeing the defendant driving,  
12 his admission at the scene was sufficient for a jury to infer that he actually drove).

13 {3} In her memorandum in opposition, Defendant focuses on the countervailing  
14 evidence, including the “physical evidence” (*i.e.*, the position of the driver’s seat),  
15 [MIO 10] in support of her continuing assertion that the verdict is unsupported by the  
16 weight of the evidence. [MIO 9-11] However, insofar as we cannot re-weigh the  
17 evidence, Defendant’s argument does not supply a basis for reversal. *See, e.g., State*  
18 *v. Owelicio*, 2011-NMCA-091, ¶ 34, 150 N.M. 528, 263 P.3d 305 (observing, in a  
19 similar case, that “[a]lthough there was other evidence and testimony indicating that

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 {4} Accordingly, for the reasons stated in our notice of proposed summary  
6 disposition and above, we affirm.

7 {5} **IT IS SO ORDERED.**

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**JAMES J. WECHSLER, Judge**

10 **WE CONCUR:**

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**TIMOTHY L. GARCIA, Judge**

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**M. MONICA ZAMORA, Judge**