

1 battery against a household member. This Court issued a calendar notice proposing
2 summary affirmance. Defendant filed a memorandum in opposition to this Court’s
3 notice of proposed disposition, which we have duly considered. Unpersuaded, we
4 affirm.

5 {2} We initially note that Defendant raised two issues in his docketing statement,
6 both of which were asserted before the district court: (1) the trial court abused its
7 discretion by admitting photographs taken by the alleged victim, and (2) there was
8 insufficient evidence to support the conviction. [CN 2; DS 10-11] However, in his
9 memorandum in opposition, Defendant did not respond to our proposed disposition
10 of Issue 1, in which we proposed to conclude that the metro court did not err in
11 admitting the photographs [CN 3]. Accordingly, this issue is deemed abandoned. *See*
12 *State v. Johnson*, 1988-NMCA-029, ¶ 8, 107 N.M. 356, 758 P.2d 306 (stating that
13 when a case is decided on the summary calendar, an issue is deemed abandoned where
14 a party fails to respond to the proposed disposition of the issue).

15 {3} With regard to Issue 2—sufficiency of the evidence—we proposed in our
16 calendar notice to agree with and adopt the district court’s well-reasoned analysis as
17 our own for purposes of this appeal. [CN 2] Defendant’s memorandum in opposition
18 does not point to any specific errors in fact or in law in our calendar notice or in the
19 district court’s opinion. *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M.

1 754, 955 P.2d 683 (“Our courts have repeatedly held that, in summary calendar cases,
2 the burden is on the party opposing the proposed disposition to clearly point out errors
3 in fact or law.”). Instead, Defendant continues to argue that no rational fact-finder
4 could have determined that the elements of the offense were proven beyond a
5 reasonable doubt, given that Defendant and the victim testified to differing accounts
6 of the event in question. [MIO 1] As readily acknowledged by Defendant [MIO 1],
7 however, the jury was free to reject his version of what happened. *See State v. Foxen*,
8 2001-NMCA-061, ¶ 17, 130 N.M. 670, 29 P.3d 1071 (providing that conflicts in the
9 evidence, including conflicts in the testimony of witnesses are to be resolved by the
10 fact-finder; stating that the fact-finder is free to reject the defendant’s version of
11 events).

12 {4} We conclude that Defendant has not met his burden to clearly demonstrate that
13 the metro court erred in this case. Accordingly, for the reasons stated above, as well
14 as those provided in our calendar notice, we affirm.

15 {5} **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

18 **WE CONCUR:**

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JAMES J. WECHSLER, Judge

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2 **J. MILES HANISEE, Judge**