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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. 35,806**

5 **JUAN DIAZ,**

6           Defendant-Appellant.

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

8 **Benjamin Chavez, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Santa Fe, NM

14 Steven J. Forsberg, Assistant Public Defender

15 Albuquerque, NM

16 for Appellant

17   **MEMORANDUM OPINION**

18 **VANZI, Judge.**

1 {1} Defendant appeals from the district court's judgment in an on-record appeal,  
2 affirming the sentencing order of the metropolitan court that convicted Defendant for  
3 assault on a household member. We issued a notice of proposed summary disposition,  
4 proposing to affirm. Defendant has responded to our notice with a memorandum in  
5 opposition. We have considered Defendant's response and remain unpersuaded that  
6 Defendant has demonstrated error. We therefore affirm.

7 {2} On appeal, Defendant challenges the sufficiency of the evidence presented to  
8 support his conviction for assault on a household member (his estranged wife) based  
9 on the victim's motive to fabricate her testimony: she could remain in the country if  
10 she was a victim of domestic violence receiving particular assistance; she had a  
11 pending claim against Defendant for unpaid child support; and she had accused  
12 Defendant of seeing someone else. [DS 6-7] Defendant pursues this issue under the  
13 demands of *State v. Franklin*, 1967-NMSC-151, ¶ 9, 78 N.M. 127, 428 P.2d 982, and  
14 *State v. Boyer*, 1985-NMCA-029, ¶ 24, 103 N.M. 655, 712 P.2d 1. [MIO 1]

15 {3} Noting the detailed recitation of the victim's testimony and the absence of  
16 contradiction thereto in the docketing statement, our notice proposed to adopt that  
17 portion of the district court's opinion as the controlling facts of the case. [RP 107-09;  
18 DS 2-6] We proposed to reject Defendant's arguments that the victim's testimony was  
19 rendered insufficient by virtue of her motives to lie, relying on the distinctions  
20 between the role of the district court as fact finder and our role as the appellate court.

1 We stated that the role of the reviewing court is to “view the evidence in the light most  
2 favorable to the guilty verdict, indulging all reasonable inferences and resolving all  
3 conflicts in the evidence in favor of the verdict.” *State v. Cunningham*,  
4 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176. We disregard all evidence and  
5 inferences that support a different result. *See State v. Rojo*, 1999-NMSC-001, ¶ 19,  
6 126 N.M. 438, 971 P.2d 829. Specifically, it is for the fact finder to resolve any  
7 conflict in the testimony of the witnesses and to determine where the weight and  
8 credibility lie. *See State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d  
9 482; *Rojo*, 1999-NMSC-001, ¶ 19 (“Contrary evidence supporting acquittal does not  
10 provide a basis for reversal because the jury is free to reject [the d]efendant’s version  
11 of the facts.”).

12 {4} In response to our notice, Defendant does not contend that there were factual  
13 errors in our notice. Rather, Defendant continues to argue that the victim’s motives  
14 to lie did not provide a legally sufficient basis for his conviction. [MIO 1] We disagree  
15 and hold that, based on the principles stated above, we cannot engage in the type of  
16 credibility determination and reweighing of the evidence that Defendant’s argument  
17 would require of us. The victim’s testimony supplied substantial evidence to support  
18 Defendant’s conviction. [RP 108-09]

19 {5} We affirm the district court’s judgment that affirms the metropolitan court’s  
20 amended judgment and sentence.

1 {6} **IT IS SO ORDERED.**

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**LINDA M. VANZI, Chief Judge**

4 **WE CONCUR:**

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**TIMOTHY L. GARCIA, Judge**

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**M. MONICA ZAMORA, Judge**