

1 proposed disposition, proposing to affirm. Defendant has responded to our notice with
2 a memorandum in opposition. We remain unpersuaded, and affirm.

3 {2} On appeal, Defendant challenges the sufficiency of the evidence to support the
4 revocation of his probation. [MIO 2-3] Defendant maintains that the officer’s
5 testimony that he saw and recognized Defendant from a forty-foot distance at night
6 and in the course of a high-speed felony pursuit is simply too incredible to support the
7 district court’s finding that Defendant was the driver of the stolen car. [MIO 3]
8 Defendant points out that the officer’s observations did not result in the pursuit of the
9 filed criminal charges. [MIO 3]

10 {3} When reviewing the sufficiency of the evidence, we “view[] the evidence in a
11 light most favorable to the State and indulg[e] all reasonable inferences in favor of the
12 [district] court’s judgment.” *State v. Erickson K.*, 2002-NMCA-058, ¶ 21, 132 N.M.
13 258, 46 P.3d 1258. Defendant’s complaint about the officer’s testimony is relevant to
14 its weight and credibility, considerations in which we do not engage on appeal. *See*
15 *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (recognizing that
16 it is for the fact-finder to resolve any conflict in the testimony of the witnesses and to
17 determine where the weight and credibility lie). The district court was free to reject
18 Defendant’s theory of the evidence and find the police officer to be credible in his
19 testimony identifying Defendant as the driver of the fleeing stolen vehicle. *See id.*; *see*

1 also *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829. We also note
2 that the failure of new charges to result in convictions does not render unsupported an
3 allegation of a probation violation for new criminal charges. The State needs to
4 establish a violation of probation only by a measure of “reasonable certainty,” not by
5 proof beyond a reasonable doubt. *State v. Sanchez*, 2001-NMCA-060, ¶ 13, 130 N.M.
6 602, 28 P.3d 1143. We hold that the officer’s testimony established with reasonable
7 certainty that Defendant violated probation by violating the laws of the state. *See State*
8 *v. Green*, 2015-NMCA-007, ¶ 22, 341 P.3d 10 (stating that proof of a probation
9 violation “must be established with a reasonable certainty, such that a reasonable and
10 impartial mind would believe that the defendant violated the terms of probation”).

11 {4} To the extent Defendant complains that the State failed to establish a violation
12 of the counseling provision of Defendant’s probation, it is of no consequence because
13 where “there is sufficient evidence to support just one violation, we will find the
14 district court’s order was proper.” *State v. Leon*, 2013-NMCA-011, ¶ 37, 292 P.3d
15 493. This principle is particularly warranted where the clearly supported probation
16 violation is a new violation of our criminal laws. *Cf.* Rule 5-805(C)(3) NMRA
17 (providing that sanction programs for technical violations of probation are not
18 available for violations that involve new criminal charges).

1 {5} For the reasons set forth above, we affirm the district court's order revoking
2 Defendant's probation.

3 {6} **IT IS SO ORDERED.**

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J. MILES HANISEE, Judge

6 **WE CONCUR:**

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LINDA M. VANZI, Chief Judge

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EMIL J. KIEHNE, Judge