



1 Defendant has responded with a memorandum in opposition. We have carefully  
2 considered the memorandum but continue to believe that affirmance is warranted in  
3 this case. Therefore, for the reasons set out below and in our notice of proposed  
4 summary disposition, we affirm.

5 {2} Defendant argues there was insufficient evidence to establish that he was the  
6 person who entered the house where Victim was staying, hit Victim, then returned  
7 with a sledge-hammer and threatened Victim. [MIO 1-2, 4-6] However, Defendant  
8 acknowledges that Victim identified him in court as the person who committed these  
9 acts. [Id. 1] This testimony alone was sufficient to allow the jury to conclude that  
10 Defendant committed the alleged acts. *See, e.g., State v. Verdugo*, 2007-NMCA-095,  
11 ¶ 27, 142 N.M. 267, 164 P.3d 966 (relying mainly on the victim’s testimony to affirm  
12 the defendant’s conviction for robbery). To the extent Defendant asks this Court to re-  
13 weigh the evidence and discount Victim’s testimony, we will not do so. *See State v.*  
14 *Garcia*, 2011-NMSC-003, ¶ 5, 149 N.M. 185, 246 P.3d 1057.

15 {3} Defendant requests that we issue a published opinion if we intend to place a  
16 burden on trial counsel to ensure that jury instructions have been made part of the  
17 record proper prior to counsel’s preparation of a docketing statement. [MIO 4] Our  
18 notice was not intended to create such a burden; however, we do note that if a  
19 defendant plans to challenge some aspect of the jury instructions, it is Defendant’s

1 | burden to bring up a record sufficient to allow us to review that challenge. *State v.*  
2 | *Jim*, 1988-NMCA-092, ¶ 3, 107 N.M. 779, 765 P.2d 195. This may be done via a  
3 | motion to supplement the record if the fact that material is missing from the record has  
4 | not been noticed at a prior time.

5 | {4} Based on the foregoing as well as the discussion in our notice of proposed  
6 | summary disposition, we affirm Defendant's conviction.

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

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**MICHAEL E. VIGIL, Judge**

10 | **WE CONCUR:**

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12 | **M. MONICA ZAMORA, Judge**

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14 | **EMIL J. KIEHNE, Judge**