

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO**

3 Plaintiff-Appellee,

4 v.

**No. A-1-CA-36824**

5 **FELEPE DE JESUS MUNOZ,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8 **Karen L. Townsend, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Bennett J. Baur, Chief Public Defender

13 Mary Barket, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16 **MEMORANDUM OPINION**

17 **HANISEE, Judge.**

1 {1} Defendant appeals his conviction for possession of methamphetamine. We  
2 issued a calendar notice proposing to affirm. Defendant has responded with a  
3 memorandum in opposition. Not persuaded, we affirm.

#### 4 **SUFFICIENCY**

5 {2} Defendant continues to challenge to the sufficiency of the evidence to support  
6 his conviction for possession of methamphetamine. [MIO 3]. A sufficiency of the  
7 evidence review involves a two-step process. Initially, the evidence is viewed in the  
8 light most favorable to the verdict. Then the appellate court must make a legal  
9 determination of “whether the evidence viewed in this manner could justify a finding  
10 by any rational trier of fact that each element of the crime charged has been  
11 established beyond a reasonable doubt.” *State v. Apodaca*, 1994-NMSC-121, ¶ 6, 118  
12 N.M. 762, 887 P.2d 756 (internal quotation marks and citation omitted).

13 {3} In order to convict Defendant, the evidence had to show that Defendant  
14 knowingly had methamphetamine in his possession. [RP 94] Here, the State presented  
15 evidence that during a search incident to arrest a substance later determined to be  
16 methamphetamine was found in Defendant’s sock. [MIO 1] The fact that the  
17 methamphetamine was hidden in a sock that Defendant was wearing supports the view  
18 that Defendant had knowledge of the illegal nature of the substance in question. *See*  
19 *State v. Wasson*, 1998-NMCA-087, ¶ 12, 125 N.M. 656, 964 P.2d 820 (stating that a

1 defendant's knowledge or intent generally presents a question of fact for a jury to  
2 decide). Although Defendant claimed that he believed that the substance was crushed  
3 glass [MIO 1], the jury was free to reject this explanation. *See State v. Sutphin*, 1988-  
4 NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314 (noting that the fact-finder is free to  
5 reject a defendant's version of events).

6 **INEFFECTIVE ASSISTANCE**

7 {4} Defendant has abandoned this issue. *See State v. Salenas*, 1991-NMCA-056,  
8 ¶ 2, 112 N.M. 268, 814 P.2d 136 (stating that when a party has not responded to the  
9 court's proposed disposition of an issue, that issue is deemed abandoned).

10 **CONCLUSION**

11 {5} For the reasons set forth above, we affirm.

12 {6} **IT IS SO ORDERED.**

13

14

---

**J. MILES HANISEE, Judge**

15 **WE CONCUR:**

16

---

**HENRY M. BOHNHOFF, Judge**

18

---

**EMIL J. KIEHNE, Judge**