

1 Garcia appeals his conviction for driving while intoxicated. In our notice of
2 proposed summary disposition, we proposed to affirm. Garcia has filed a
3 memorandum in opposition, which we have duly considered. As we are not persuaded
4 by Garcia's arguments, we affirm.

5 Garcia asserts that the officer lacked probable cause to arrest him for driving
6 while under the influence of alcohol. [DS 8] In this Court's notice of proposed
7 summary disposition, we proposed to find no error in the conclusion that the officer
8 had probable cause to arrest Garcia. *See State v. Ruiz*, 120 N.M. 534, 540, 903 P.2d
9 845, 851 (Ct. App. 1995) (holding that there was probable cause to arrest the
10 defendant based on observations that the defendant was weaving and drove for four
11 blocks while the officer was trying to pull him over, had a strong smell of alcohol and
12 glassy eyes, and was unable to perform field sobriety testing), *abrogated on other*
13 *grounds by State v. Martinez*, 2007-NMSC-025, 141 N.M. 713, 160 P.3d 894.

14 Garcia has filed a memorandum in opposition in which he argues that there was
15 no probable cause (1) because there were other possible explanations for Garcia's
16 driving behavior and his performance on the field sobriety tests, (2) because not
17 everyone whose breath smells of alcohol or whose eyes are bloodshot and watery is
18 impaired by alcohol, and (3) because field sobriety tests were designed to assess a
19 person's blood alcohol content, not impairment. [MIO 7-9] However, as we
20 explained in our notice, the probable cause standard does not require an officer to

