

STATE V. CARTER

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MARCIA CARTER,
Defendant-Appellant.

No. 33,254

COURT OF APPEALS OF NEW MEXICO

May 20, 2014

APPEAL FROM THE DISTRICT COURT OF TAOS COUNTY, Jeff McElroy, District
Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, for Appellee

Jorge A. Alvarado, Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: LINDA M. VANZI, Judge, J. MILES HANISEE, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant appeals from the district court's conditional discharge order finding her guilty of criminal, misdemeanor harassment. We issued a notice of proposed summary disposition, proposing to affirm. Defendant has filed a memorandum in opposition to our

notice. Having considered Defendant's response, we remain unpersuaded that the district court erred. We affirm.

{2} Defendant raises two issues on appeal. Firstly, Defendant argues that the district court erred by permitting the State to amend the criminal complaint and present evidence of events which were more than two-years-old in violation of the statute of limitations. [DS 6-7; MIO 6-7] Secondly, Defendant argues that insufficient evidence was presented to support her conviction for harassment. [DS 7; MIO 7-11]

{3} Our notice detailed the relevant facts for each issue and set forth the law we believed controlled. Applying the facts to the law, we proposed to conclude: (1) the district court did not err by permitting the criminal complaint to be amended and ruling that the complaint was timely; and (2) the evidence was sufficient to support Defendant's conviction. We do not reiterate our proposed analysis here.

{4} Defendant's response to our notice provides this Court with a more thorough account of the evidence presented, as we requested. [MIO 1-6, 9-10] We appreciate counsel's efforts to comply with the rules and our notice. Defendant's account of the evidence does not contradict the facts upon which our notice proposed to rely. Further, Defendant's response does not assert any new factual or legal argument that persuades this Court that our notice was incorrect regarding either appellate issue. On the basis of our proposed analysis, we hold that the complaint was timely and properly amended and that sufficient evidence supports Defendant's conviction.

{5} Based on the foregoing, we affirm the district court's conditional discharge order, convicting Defendant for criminal, misdemeanor harassment.

{6} IT IS SO ORDERED.

M. MONICA ZAMORA, Judge

WE CONCUR:

LINDA M. VANZI, Judge

J. MILES HANISEE, Judge