

STATE V. CRUZ

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
CHRISTINA CRUZ,
Defendant-Appellant.

NO. 31,422

COURT OF APPEALS OF NEW MEXICO

November 16, 2011

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Reed S.
Sheppard, District Judge

COUNSEL

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

Jacqueline L. Cooper, Acting Chief Public Defender, Josephine H. Ford, Assistant
Public Defender, Albuquerque, NM, for Appellant

JUDGES

CYNTHIA A. FRY, Judge. WE CONCUR: MICHAEL E. VIGIL, Judge, LINDA M. VANZI,
Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

Defendant appeals her conviction for battery against a household member. We proposed to affirm in a calendar notice, and we have received a memorandum in

opposition to our notice. We have duly considered Defendant's arguments, but we find them unpersuasive. We affirm.

Defendant claims that there was insufficient evidence to prove, beyond a reasonable doubt, that Defendant did not act in self defense when she struck Mendoza. As discussed in our calendar notice, conflicting testimony was given by Defendant and Mendoza. The jury resolved the conflict in that testimony and rejected Defendant's claim of self defense. See *State v. Coffin*, 1999-NMSC-038, ¶ 13, 128 N.M. 192, 991 P.2d 477 (stating jury may reject version of events regarding claim of self defense); *State v. Sutphin*, 107 N.M. 126, 131, 753 P.2d 1314, 1319 (1988) (discussing jury's chore of resolving conflicts and determining credibility when addressing claim of self defense); *State v. Hill*, 2001-NMCA-094, ¶10, 131 N.M. 195, 34 P.3d 139 (clarifying that it is reasonable for a jury to accept or reject a defendant's version of events when deciding whether the defendant acted in self defense).

Defendant cites to *State v. Maes*, 2007-NMCA-089, 142 N.M. 276, 164 P.3d 975, which states that, for proof beyond a reasonable doubt, the evidence and inferences from that evidence "must be sufficiently compelling" such that a reasonable juror was able to be nearly certain of the guilt of the defendant. *Id.* ¶ 12. This Court, in applying the standard, defers to the jury's evaluation of the evidence. *Id.* Defendant's defense to the battery charge was that she was acting in self defense when she hit Mendoza. Mendoza testified that, while Defendant was standing in his apartment with no obstacles behind her, she hit his lip with her fist. The jury heard Mendoza's testimony and other evidence provided by the parties. The jury evaluated the evidence and determined that Defendant was guilty of the charge. We hold that the evidence was sufficient to prove that Defendant was not acting in self defense when she committed the act of battery.

For the reasons discussed in this opinion and in our calendar notice, we affirm Defendant's conviction.

IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE CONCUR:

MICHAEL E. VIGIL, Judge

LINDA M. VANZI, Judge