

STATE V. DON J.

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
DON J.,
Child-Appellant.

No. 32,894

COURT OF APPEALS OF NEW MEXICO

October 24, 2013

APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY, Jane Shuler Gray,
District Judge

COUNSEL

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

Bennett J. Baur, Acting Chief Public Defender, Kathleen T. Baldrige, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
MICHAEL E. VIIGL, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Child appeals from his adjudication of delinquency based on his acts of resisting, evading or obstructing an officer and disorderly conduct. [RP 37] Our notice proposed to

affirm and Child filed a memorandum in opposition. We remain unpersuaded by Child's arguments and therefore affirm.

{2} Child continues to argue that the evidence was insufficient to support his adjudication for the delinquent acts of resisting, evading, or obstructing an officer and disorderly conduct. [MIO 3] See *State v. Sutphin*, 1988-NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314 (setting forth the substantial evidence standard of review). For the same reasons detailed in our notice, we hold that there was sufficient evidence to support the adjudication of delinquency. See generally *State v. Sparks*, 1985-NMCA-004, ¶¶ 6-7, 102 N.M. 317, 694 P.2d 1382 (defining substantial evidence as that evidence which a reasonable person would consider adequate to support a defendant's conviction). In doing so, we acknowledge Child's continued argument that he did not commit the delinquent acts and that his actions were instead a justified response to what he alleges was the officer's inappropriate conduct. [MIO 4-5] As we emphasized in our notice, however, the factfinder was free to reject Child's version of events. See *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829 ("Contrary evidence supporting acquittal does not provide a basis for reversal because the jury is free to reject Defendant's version of the facts."); see also *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482 (recognizing that it is for the factfinder to resolve any conflict in the testimony of the witnesses and to determine where the weight and credibility lay).

{3} For the reasons set forth herein and in our notice, we affirm.

{4} **IT IS SO ORDERED.**

TIMOTHY L. GARCIA, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

MICHAEL E. VIIGL, Judge