

STATE V. MUNOZ

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STATE OF NEW MEXICO
Plaintiff-Appellee,
v.
FELEPE DE JESUS MUNOZ,
Defendant-Appellant.

No. A-1-CA-36824

COURT OF APPEALS OF NEW MEXICO

May 31, 2018

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Karen L.
Townsend, District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, Mary Barket, Assistant Appellate Defender,
Santa Fe, NM, for Appellant

JUDGES

J. MILES HANISEE, Judge. WE CONCUR: HENRY M. BOHNHOFF, Judge, EMIL J.
KIEHNE, Judge

AUTHOR: J. MILES HANISEE

MEMORANDUM OPINION

HANISEE, Judge.

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

SUFFICIENCY

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

{3} In order to convict Defendant, the evidence had to show that Defendant knowingly had methamphetamine in his possession. [RP 94] Here, the State presented evidence that during a search incident to arrest a substance later determined to be methamphetamine was found in Defendant’s sock. [MIO 1] The fact that the methamphetamine was hidden in a sock that Defendant was wearing supports the view that Defendant had knowledge of the illegal nature of the substance in question. See *State v. Wasson*, 1998-NMCA-087, ¶ 12, 125 N.M. 656, 964 P.2d 820 (stating that a defendant’s knowledge or intent generally presents a question of fact for a jury to decide). Although Defendant claimed that he believed that the substance was crushed glass [MIO 1], the jury was free to reject this explanation. See *State v. Sutphin*, 1988-NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314 (noting that the fact-finder is free to reject a defendant’s version of events).

INEFFECTIVE ASSISTANCE

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

CONCLUSION

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

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

J. MILES HANISEE, Judge

WE CONCUR:

HENRY M. BOHNHOFF, Judge

EMIL J. KIEHNE, Judge