

STATE V. SANCHEZ

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
CESAR SANCHEZ,
Defendant-Appellant.**

Docket No. A-1-CA-37709
COURT OF APPEALS OF NEW MEXICO
March 18, 2019

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY, Matthew E. Chandler,
District Judge

COUNSEL

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

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

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: M. MONICA ZAMORA, Chief Judge, BRIANA H. ZAMORA, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

{1} Defendant appeals following the revocation of his probation. We previously issued a notice of proposed summary disposition, proposing to affirm. Defendant has filed a memorandum in opposition. After due consideration, we remain unpersuaded by the assertion of error. We therefore affirm.

{2} In his memorandum in opposition Defendant renews his challenge to the sufficiency of the evidence to establish that he violated the terms and conditions of probation. [DS 5; MIO 3] However, as described at greater length in the notice of proposed summary disposition, [CN 2-3] the State presented eyewitness testimony establishing that Defendant violated the first standard condition of his probation by committing one or more criminal offenses—namely, assault, battery, and/or robbery. [RP 104-06] Defendant does not controvert this; instead, he contends that the evidence should be deemed insufficient because the State failed to establish that he committed either battery on a household member or false imprisonment. [MIO 1, 4-6] Assuming that this is so, it does not alter our analysis or require a different result. Although battery on a household member and false imprisonment were charged in a separately filed criminal action, [RP 78-80] the detailed petition to revoke Defendant’s probation described a course of conduct that was also consistent with assault, battery, and robbery. [RP 75-81] And as previously stated, the eyewitness testimony presented at the hearing on the petition was sufficient to establish, with reasonable certainty, that Defendant committed one or more of those offenses. [CN 2-3; RP 104-06] See generally *State v. Leon*, 2013-NMCA-011, ¶ 36, 292 P.3d 493 (explaining that the state bears the burden of establishing a probation violation with reasonable certainty); *In re Bruno R.*, 2003-NMCA-057, ¶ 9, 133 N.M. 566, 66 P.3d 339 (stating that we indulge all reasonable inferences to uphold a finding that there was sufficient evidence of a probation violation). This is sufficient to support the revocation of Defendant’s probation. See *Leon*, 2013-NMCA-011, ¶ 37 (“[I]f there is sufficient evidence to support just one violation, we will find the district court’s [probation revocation] order was proper.”).

{3} Accordingly, for the reasons stated in the notice of proposed summary disposition and above, we affirm.

{4} IT IS SO ORDERED.

LINDA M. VANZI, Judge

WE CONCUR:

M. MONICA ZAMORA, Chief Judge

BRIANA H. ZAMORA, Judge