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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v. **NO. 30,997**

EULALIO CHÁVEZ,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY
Stephen Bridgforth, District Judge

Gary King, Attorney General
Santa Fe, NM

for Appellee

Jacqueline L. Cooper, Acting Chief Public Defender
Karl Erich Martell, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

VIGIL, Judge.

Defendant appeals his convictions for criminal sexual contact of a minor and battery. In this Court's notice of proposed summary disposition, we proposed to affirm. Defendant has filed a memorandum in opposition, which we have duly considered. As we are not persuaded by Defendant's arguments, we affirm.

In this Court's notice of proposed summary disposition, we proposed to conclude that the victims' testimony that Defendant touched them in the manner charged was sufficient to support Defendant's convictions. Although Defendant argued, pursuant to *State v. Franklin*, 78 N.M. 127, 129, 428 P.2d 982, 984 (1967), and *State v. Boyer*, 103 N.M. 655, 658-60, 712 P.2d 1, 4-6 (Ct. App. 1985), that the victims' testimony was not credible, we pointed out that this Court does not assess the credibility of witnesses, *State v. Salas*, 1999-NMCA-099, ¶ 13, 127 N.M. 686, 986 P.2d 482, and that we are required to view the evidence, and all reasonable inferences to be drawn from the evidence, in the light most favorable to the verdict, *see State v. Cunningham*, 2000-NMSC-009, ¶ 26, 128 N.M. 711, 998 P.2d 176.

Defendant has responded with a memorandum in opposition, in which, again pursuant to *Franklin* and *Boyer*, he points to evidence introduced at trial that would call the victims' credibility into question and that would support his version of events. Defendant has provided no new facts, authority, or legal analysis that would persuade this Court that its proposed summary disposition was erroneous. Therefore, for the

reasons stated in this opinion and in our notice of proposed summary disposition, we affirm.

IT IS SO ORDERED.

MICHAEL E. VIGIL, Judge

WE CONCUR:

CELIA FOY CASTILLO, Chief Judge

CYNTHIA A. FRY, Judge