

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **Opinion Number:** _____

3 **Filing Date: January 4, 2018**

4 **NO. S-1-SC-35116**

5 **STATE OF NEW MEXICO,**

6 Plaintiff-Petitioner,

7 v.

8 **JENNIFER MARTINEZ,**

9 Defendant-Respondent.

10 **ORIGINAL PROCEEDING ON CERTIORARI**

11 Karen L. Townsend, District Judge

12 Hector H. Balderas, Attorney General

13 Martha Anne Kelly, Assistant Attorney General

14 Kenneth H. Stalter, Assistant Attorney General

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16 Santa Fe, NM

17 for Petitioner

18 Bennett J. Baur, Chief Public Defender

19 C. David Henderson, Appellate Defender

20 Santa Fe, NM

21 for Respondent

1 **OPINION**

2 **VIGIL, Justice.**

3 {1} Our resolution of this appeal turns on the standard of review that applies to a
4 district court’s findings of fact concerning a motion to suppress evidence.
5 Specifically, we defer to the district court’s findings if supported by substantial
6 evidence. *See State v. Jason L.*, 2000-NMSC-018, ¶ 10, 129 N.M. 119, 2 P.3d 856.

7 {2} Bloomfield Police Sergeant George Rascon pulled over Defendant Jennifer
8 Martinez for failing to stop at a stop sign and, as a result, the police obtained evidence
9 that led to Defendant’s arrest and conviction for driving while intoxicated. In a
10 motion to suppress evidence, Defendant argued that the video from the officer’s on-
11 board camera, or “dash-cam,” demonstrated that Defendant made a legal stop at the
12 intersection and that the officer lacked reasonable suspicion to pull her over. At an
13 evidentiary hearing, the officer testified that Defendant went past the stop sign before
14 coming to a complete stop, blocking the intersection. The district court viewed the
15 dash-cam video and concluded that the officer had reasonable suspicion to conduct
16 the traffic stop, even though the video demonstrated that the alleged traffic violation
17 was not as blatant as described by the officer.

18 {3} The Court of Appeals reversed, reasoning that the officer was not credible and
19 that the video evidence was too ambiguous to support a finding of reasonable

1 suspicion. *State v. Martinez*, 2015-NMCA-051, ¶ 1, 348 P.3d 1022, *cert. granted*,
2 2015-NMCERT-005. We hold that the Court of Appeals misapplied the standard of
3 review, which requires the appellate court to defer to the district court’s findings of
4 fact if supported by substantial evidence and to view the facts in the light most
5 favorable to the prevailing party.

6 **I. BACKGROUND**

7 {4} Defendant was charged in magistrate court with driving while under the
8 influence of intoxicating liquor or drugs (second offense), *see* NMSA 1978, § 66-8-
9 102 (2008, amended 2016); consumption of an alcoholic beverage in a motor vehicle,
10 *see* NMSA 1978, § 66-8-138(A) (2001, amended 2013); and failure to stop at a stop
11 sign, *see* NMSA 1978, § 66-7-345(C) (2003). Defendant filed a motion to suppress
12 evidence, arguing that the officer lacked reasonable suspicion to initiate the traffic
13 stop. The magistrate court denied the motion to suppress. Defendant entered a
14 conditional guilty plea to driving while under the influence of intoxicating liquor or
15 drugs, reserving her right to appeal the suppression issue. *See State v. Celusniak*,
16 2004-NMCA-070, ¶ 10, 135 N.M. 728, 93 P.3d 10 (recognizing that a defendant in
17 magistrate court “may enter a conditional plea of guilty or no contest, reserving one
18 or more issues for appeal”).

1 {5} Defendant appealed de novo to the district court and renewed her motion to
2 suppress. *See* N.M. Const. art. VI, § 27 (providing for de novo appeal to district
3 court). The State’s evidence at the suppression hearing consisted of Sergeant George
4 Rascon’s testimony and the dash-cam video. The officer testified that on November
5 11, 2008, at about 10:00 p.m., he was patrolling a residential neighborhood in
6 Bloomfield when he saw a vehicle approaching the four-way intersection of
7 Sycamore and North Third at a “high rate of speed.” The officer testified that when
8 Defendant reached the intersection, she went past the stop sign before coming to a
9 complete stop, blocking the southbound lane of traffic. The officer activated his
10 emergency lights and pulled Defendant over for failing to stop at the stop sign.

11 {6} After hearing the officer’s testimony and watching the dash-cam video, the
12 district court denied Defendant’s motion to suppress. The district court judge
13 explained her ruling as follows:

14 [A]fter hearing Sergeant Rascon’s testimony I was certainly confused as
15 to why [Defendant] would file a motion to suppress because he made it
16 sound very clear why . . . he stopped and that there was reasonable
17 suspicion. But I think it just goes to show you really need to review the
18 video in every case. And in this case, after reviewing the video, I truly
19 find the truth somewhere in between both positions. I certainly didn’t
20 see Sergeant Rascon’s testimony that . . . she stopped in the middle of
21 the intersection; I don’t think that was the case. However, I do think
22 she . . . seemed to be going quickly, she seemed to have slammed on her
23 brakes, and she seems to have slammed on her brakes further into the

1 intersection than I think is allowable, creating the reasonable suspicion
2 for Sergeant Rascon to . . . stop [Defendant]. So therefore I will deny
3 Defendant’s motion to suppress, although I will grant that it was
4 certainly a closer call than I thought it was going to be at first. But I still
5 think Sergeant Rascon did have reasonable suspicion to stop her.

6 {7} The Court of Appeals reversed. *Martinez*, 2015-NMCA-051. The Court of
7 Appeals inferred from the judge’s remarks that “the district court found that the
8 officer was not credible.” *Id.* ¶ 12. The Court of Appeals concluded that “the district
9 court was left with no facts other than the video on which to conclude that the stop
10 was supported by a reasonable suspicion.” *Id.* The Court of Appeals then conducted
11 an independent review of the dash-cam video and found that the video evidence was
12 too ambiguous by itself to support a finding of reasonable suspicion. *Id.* ¶¶ 13-14. We
13 granted certiorari under Article VI, Section 2 of the New Mexico Constitution and
14 NMSA 1978, Section 34-5-14(B) (1972), to consider whether the Court of Appeals
15 erred by failing to view the facts in the manner most favorable to the prevailing party.

16 **II. DISCUSSION**

17 **A. Standard of Review**

18 {8} “Appellate review of a motion to suppress presents a mixed question of law and
19 fact.” *State v. Ketelson*, 2011-NMSC-023, ¶ 9, 150 N.M. 137, 257 P.3d 957. “First,
20 we look for substantial evidence to support the [district] court’s factual finding, with

1 deference to the district court’s review of the testimony and other evidence
2 presented.” *State v. Yazzie*, 2016-NMSC-026, ¶ 15, 376 P.3d 858 (internal quotation
3 marks and citation omitted). “We then review the application of the law to those facts,
4 making a de novo determination of the constitutional reasonableness of the search or
5 seizure.” *Id.* (internal quotation marks and citation omitted).

6 **B. The Court of Appeals Erred by Failing to Afford Proper Deference to the**
7 **District Court’s Findings of Fact**

8 {9} The State argues that the Court of Appeals erred by failing to view the facts in
9 the manner most favorable to the State, which prevailed in the district court.
10 Defendant asks us to affirm the Court of Appeals, arguing that the objective evidence
11 from the dash-cam demonstrates that the traffic stop was unconstitutional.

12 {10} Defendant relies on both the Fourth Amendment to the United States
13 Constitution and Article II, Section 10 of the New Mexico Constitution. These
14 constitutional provisions “provide overlapping protections against unreasonable
15 searches and seizures,” *Yazzie*, 2016-NMSC-026, ¶ 17 (internal quotation marks and
16 citation omitted), including safeguards for “brief investigatory stops of persons or
17 vehicles that fall short of traditional arrest.” *United States v. Arvizu*, 534 U.S. 266,
18 273 (2002). A police officer can initiate an investigatory traffic stop without
19 infringing the Fourth Amendment or Article II, Section 10 if the officer has “a

1 reasonable suspicion that the law is being or has been broken.” *Yazzie*, 2016-NMSC-
2 026, ¶ 38.¹ “In analyzing whether an officer has reasonable suspicion, the trial court
3 must look at the totality of the circumstances, and in doing so it may consider the
4 officer’s experience and specialized training to make inferences and deductions from
5 the cumulative information available to the officer.” *State v. Gonzales*, 2011-NMSC-
6 012, ¶ 15, 150 N.M. 74, 257 P.3d 894. An officer obtains reasonable suspicion when
7 the officer becomes “aware of specific articulable facts that, judged objectively,
8 would lead a reasonable person to believe criminal activity occurred or was
9 occurring.” *State v. Urioste*, 2002-NMSC-023, ¶ 6, 132 N.M. 592, 52 P.3d 964
10 (internal quotation marks and citation omitted); *see also United States v. Sokolow*,
11 490 U.S. 1, 7 (1989) (explaining that the requisite “level of suspicion” needed to
12 conduct an investigatory stop “is considerably less than proof of wrongdoing by a
13 preponderance of the evidence” and “is obviously less demanding than that for
14 probable cause”).

15 ¹“Although we have interpreted Article II, Section 10 to provide broader
16 protections against unreasonable search and seizure than the Fourth Amendment in
17 some contexts, we have never interpreted the New Mexico Constitution to require
18 more than a reasonable suspicion that the law is being or has been broken to conduct
19 a temporary, investigatory traffic stop.” *Yazzie*, 2016-NMSC-026, ¶ 38 (citation
20 omitted). Defendant does not argue that a standard other than reasonable suspicion
21 should apply to an investigatory stop under Article II, Section 10.

1 {11} In this case, the district court concluded that the officer had reasonable
2 suspicion to pull Defendant over for violating Section 66-7-345(C) of the Motor
3 Vehicle Code. Section 66-7-345(C) requires a driver to stop at a stop sign as follows:

4 Except when directed to proceed by a police officer or traffic-control
5 signal, every driver of a vehicle approaching a stop intersection
6 indicated by a stop sign shall stop before entering the crosswalk on the
7 near side of the intersection or, in the event there is no crosswalk, shall
8 stop at a clearly marked stop line, but if none, then at the point nearest
9 the intersecting roadway before entering the intersection.

10 There was neither a crosswalk nor a stop line at the intersection of Sycamore and
11 North Third, so Section 66-7-345(C) required Defendant to stop “at the point nearest
12 the intersecting roadway before entering the intersection.” *See* NMSA 1978, §
13 66-1-4.9(B)(1) (1998, amended 2015) (defining “intersection” as “the area embraced
14 within the prolongation or connection of the lateral curb lines or, if none, then the
15 lateral boundary lines of the roadways of two highways that join one another at, or
16 approximately at, right angles, or the area within which vehicles traveling upon
17 different highways joining at any other angle may come in conflict”). At the
18 suppression hearing, the district court heard the State’s evidence and reviewed the
19 language of Section 66-7-345(C) before finding that Defendant was “going quickly”
20 and “slammed on her brakes further into the intersection than . . . allowable, creating
21 the reasonable suspicion” for the officer to pull Defendant over for a traffic violation.

1 {12} Defendant asserts that the dash-cam video does not show a violation of Section
2 66-7-345(C) and argues that it is appropriate to reverse the district court’s finding of
3 reasonable suspicion on appeal based on an independent review of the video.
4 Defendant contends that this Court is in as good a position as the district court to
5 make findings based on the video because video is a type of documentary evidence.
6 We agree that “[w]here the issue to be determined rests upon interpretation of
7 documentary evidence, this Court is in as good a position as the trial court to
8 determine the facts and draw its own conclusions.” *Flemma v. Halliburton Energy*
9 *Servs., Inc.*, 2013-NMSC-022, ¶ 13, 303 P.3d 814 (internal quotation marks and
10 citation omitted). But in this case the evidence before the district court included both
11 the officer’s testimony and the dash-cam video. On appeal, we must review the
12 totality of the circumstances and must avoid reweighing individual factors in
13 isolation. *See Arvizu*, 534 U.S. at 274 (disapproving an appellate court’s “divide-and-
14 conquer analysis” that evaluated and rejected various factors in isolation, rather than
15 reviewing the “ ‘totality of the circumstances’ ”). In doing so, we “defer to the district
16 court’s findings of fact if substantial evidence exists to support those findings” and
17 “view the facts in the manner most favorable to the prevailing party.” *Urioste*,
18 2002-NMSC-023, ¶ 6.

1 {13} The parties disagree about the extent to which the district court found the
2 officer credible and relied on his testimony in finding that the traffic stop was
3 supported by reasonable suspicion. Defendant contends that the district court rejected
4 the officer's testimony. The Court of Appeals adopted Defendant's position. *See*
5 *Martinez*, 2015-NMCA-051, ¶ 12 ("The district court could, perhaps, have stripped
6 away the officer's exaggeration while giving credence to the officer's perception that
7 Defendant came to rest in the intersection. But it did not. Instead, the district court
8 found that the officer was not credible."). The State, on the other hand, asserts that
9 the district court found aspects of the officer's testimony credible even though he
10 misremembered or exaggerated exactly how far Defendant protruded into the
11 intersection before coming to a complete stop. The State argues that the Court of
12 Appeals misconstrued the district court's credibility findings and contravened the
13 standard of review by independently reweighing the evidence on appeal. We agree
14 with the State.

15 {14} When acting as the fact-finder at a suppression hearing, the district court must
16 evaluate the credibility of witnesses and determine the weight to which the evidence
17 is entitled. *See State v. Gonzales*, 1997-NMSC-050, ¶ 18, 124 N.M. 171, 947 P.2d
18 128 ("Determining credibility and weighing evidence are tasks entrusted to the trial

1 court sitting as fact-finder.”). The district court may exercise “discretion to credit
2 portions of a witness’ testimony even though it finds other portions dubious.” *United*
3 *States v. Whalen*, 82 F.3d 528, 532 (1st Cir. 1996); *see also Kadia v. Gonzales*, 501
4 F.3d 817, 821 (7th Cir. 2007) (“Anyone who has ever tried a case or presided as a
5 judge at a trial knows that witnesses are prone to fudge, to fumble, to misspeak, to
6 misstate, to exaggerate. If any such pratfall warranted disbelieving a witness’s entire
7 testimony, few trials would get all the way to judgment.”). On appeal, we defer to the
8 district court’s evaluation of witness credibility. *See Urioste*, 2002-NMSC-023, ¶ 6
9 (“As a reviewing court we do not sit as a trier of fact; the district court is in the best
10 position to resolve questions of fact and to evaluate the credibility of witnesses.”). An
11 appellate court is “unable to view the witness’s demeanor or . . . manner of speech,
12 and therefore [is] not in a position to evaluate many of the aspects of witness
13 credibility that the trier of fact may evaluate.” *State v. Evans*, 2009-NMSC-027, ¶ 37,
14 146 N.M. 319, 210 P.3d 216. If the district court does not make explicit credibility
15 findings, “we will indulge in all reasonable presumptions in support of the district
16 court’s ruling.” *See Jason L.*, 2000-NMSC-018, ¶ 11 (internal quotation marks and
17 citation omitted).

18 {15} In this case, the district court did not make an explicit finding regarding the

1 officer’s credibility but did find that “the truth [fell] somewhere in between [the
2 officer’s and Defendant’s] positions.” The district court further found that the officer
3 “did have reasonable suspicion to stop” Defendant for a traffic violation. “Factfinding
4 frequently involves selecting which inferences to draw.” *Jason L.*, 2000-NMSC-018,
5 ¶ 10 (internal quotation marks and citation omitted). An appellate court must indulge
6 in “[a]ll reasonable inferences in support of the district court’s decision” and
7 disregard “all inferences or evidence to the contrary.” *Id.* (alteration omitted) (internal
8 quotation marks and citation omitted). “The fact that another district court could have
9 drawn different inferences on the same facts does not mean this district court’s
10 findings were not supported by substantial evidence.” *Id.* Applying the appropriate
11 standard of review, we presume that the district court credited the officer’s perception
12 that Defendant violated Section 66-7-345(C), even though the dash-cam video
13 showed that the violation was not as blatant as the officer described.

14 {16} Defendant relies on cases from other jurisdictions to argue that the officer’s
15 testimony should not weigh into our reasonable suspicion calculus because the dash-
16 cam video contradicted the officer’s testimony. *See, e.g., State v. Canty*, 736 S.E.2d
17 532, 536-37 (N.C. Ct. App. 2012) (finding no reasonable suspicion, in part because
18 a video disproved an officer’s assertion that the defendant’s vehicle crossed the fog

1 line); *Carmouche v. State*, 10 S.W.3d 323, 331-32 (Tex. Crim. App. 2000) (declining
2 to defer to the district court’s findings, in part because a video presented
3 “indisputable visual evidence contradicting essential portions” of an officer’s
4 testimony). Defendant asserts that when an officer’s testimony is materially different
5 from objective evidence, the objective evidence should control a court’s factual
6 understanding of what took place. *See Ortega v. Koury*, 1951-NMSC-011, ¶ 8, 55
7 N.M. 142, 227 P.2d 941 (“Physical facts and conditions may point so unerringly to
8 the truth as to leave no room for a contrary conclusion based on reason or common
9 sense, and under such circumstances the physical facts are not affected by sworn
10 testimony which in mere words conflicts with them.”); *see also Crownover v. Nat’l*
11 *Farmers Union Prop. & Cas. Co.*, 1983-NMSC-099, ¶ 8, 100 N.M. 568, 673 P.2d
12 1301 (“A decision resting on evidence which is inherently improbable is not based
13 on substantial evidence.”).

14 {17} The cases Defendant cites are distinguishable from this case. Here, the facts
15 were not indisputably established, and the dash-cam video did not squarely contradict
16 the officer’s testimony. Due to poor lighting and the angle of the dash-cam, the video
17 does not show whether Defendant violated Section 66-7-345(C) by failing to stop “at
18 the point nearest the intersecting roadway before entering the intersection.” As noted

1 by the Court of Appeals, “[b]ecause of the angle on which the video is taken, it is
2 impossible to determine whether Defendant’s vehicle is just barely in the intersection
3 (a violation) or just barely behind the intersection (no violation) when it came to a
4 stop.” *Martinez*, 2015-NMCA-051, ¶ 14. Defendant acknowledges that the dash-cam
5 video provides a distorted view of the intersection, making it difficult to ascertain the
6 position of Defendant’s car relative to the curb when she came to a stop. If there is
7 “conflicting evidence, we defer to the district court’s factual findings, so long as those
8 findings are supported by evidence in the record.” *Evans*, 2009-NMSC-027, ¶ 37.

9 {18} We hold that the record, viewed in the light most favorable to the district
10 court’s ruling, includes sufficient evidence to support the district court’s finding that
11 the officer had an objectively reasonable basis to stop Defendant for violating Section
12 66-7-345(C). The officer testified that Defendant’s car approached the intersection
13 at a “high rate of speed” and went past the stop sign before coming to a stop in the
14 intersection, blocking the southbound lane of traffic. Although the dash-cam video
15 does not show that Defendant blocked the intersection and is ambiguous concerning
16 whether Defendant violated Section 66-7-345(C), the video confirms the officer’s
17 testimony that Defendant was moving quickly when she braked and that her vehicle
18 went past the stop sign before stopping. The district court resolved the parties’ factual

1 dispute in favor of the State, finding that Defendant drove too far into the intersection
2 before slamming on her brakes and coming to a stop. We conclude that the Court of
3 Appeals erred by reweighing the evidence on appeal and failing to view the facts in
4 the manner most favorable to the prevailing party.

5 **III. CONCLUSION**

6 {19} Having considered the totality of the circumstances and given appropriate
7 deference to the district court's factual findings, we affirm the district court's
8 determination that the officer had reasonable suspicion to stop Defendant. We reverse
9 the Court of Appeals and remand for further proceedings consistent with this opinion.

10 {20} **IT IS SO ORDERED.**

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BARBARA J. VIGIL, Justice

13 **WE CONCUR:**

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JUDITH K. NAKAMURA, Chief Justice

1

2 **PETRA JIMENEZ MAES, Justice**

3

4 **EDWARD L. CHÁVEZ, Justice**

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6 **CHARLES W. DANIELS, Justice**