

STATE V. MARTINEZ

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**STATE OF NEW MEXICO,
Plaintiff-Appellant,
v.
JUAN CARLOS MARTINEZ,
Defendant-Appellee.**

No. 32,424

COURT OF APPEALS OF NEW MEXICO

April 28, 2015

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Douglas R.
Driggers, District Judge

COUNSEL

Hector H. Balderas, Attorney General, Margaret McLean, Assistant Attorney General,
Santa Fe, NM, for Appellant

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Defender, Santa Fe, NM, for Appellee

JUDGES

CYNTHIA A. FRY, Judge. WE DO CONCUR: JAMES J. WECHSLER, Judge, LINDA M.
VANZI, Judge

AUTHOR: CYNTHIA A. FRY

MEMORANDUM OPINION

FRY, Judge.

{1} The State appealed an order of the district court excluding the minor victim's testimony in this case. Our third notice of proposed disposition suggested the possibility

that this appeal is moot and/or nonjusticiable. In response, the State indicates that a nolle prosequi was filed in the district court on September 27, 2013. The State adds that due to the nolle prosequi, “the appeal may be summarily dismissed.” [Resp. 2] Since the prosecution underlying this appeal has ended, any ruling we might make on the evidentiary issue would not afford the State any relief, and the State’s appeal is therefore moot. See *State v. Sergio B.*, 2002-NMCA-070, ¶ 9, 132 N.M. 375, 48 P.3d 764 (pointing out that an appeal is moot when a ruling from the appellate court will not grant the appellant any actual relief). We therefore dismiss the appeal.

{2} IT IS SO ORDERED.

CYNTHIA A. FRY, Judge

WE DO CONCUR:

JAMES J. WECHSLER, Judge

LINDA M. VANZI, Judge