

**STATE V. STEVENS**

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**STATE OF NEW MEXICO,  
Plaintiff-Appellant,  
v.  
JERI STEVENS,  
Defendant-Appellee.**

NO. 34,969

COURT OF APPEALS OF NEW MEXICO

October 6, 2016

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, Sandra A. Price,  
District Judge

**COUNSEL**

Hector H. Balderas, Attorney General, Santa Fe, NM, John Kloss, Assistant Attorney General, Albuquerque, NM, for Appellant

Bennett J. Baur, Chief Public Defender, Santa Fe, NM, for Appellee

**JUDGES**

RODERICK T. KENNEDY, Judge. WE CONCUR: LINDA M. VANZI, Judge, STEPHEN G. FRENCH, Judge

**AUTHOR:** RODERICK T. KENNEDY

**MEMORANDUM OPINION**

**KENNEDY, Judge.**

{1} The State appeals following the district court's entry of findings of fact and conclusions of law and remand order to the magistrate court for correction of its judgment and sentence. [DS 1; RP 64–66] This Court issued a notice proposing to

dismiss the appeal for lack of a final order. [1 CN 1,4] Following the State's memorandum in opposition, in which the State argued this Court has jurisdiction to hear its appeal [1 MIO 4–11], this Court issued a second notice proposing to dismiss the appeal on mootness grounds [2 CN 1, 4]. The State filed a second memorandum in opposition, which we have duly considered. Remaining unpersuaded, we decline to exercise our discretion to consider the issue in this case, and we dismiss the appeal as moot.

{2} As we pointed out in our second proposed disposition, it appears Defendant completed her probation on April 28, 2015, and the State's argument became moot when Defendant completed her probationary period. [CN 2–3] As we noted in our last notice proposing to dismiss, this Court “*may* review moot cases that present issues of (1) substantial public interest or (2) which are capable of repetition yet evading review.” *Cobb v. N.M. State Canvassing Bd.*, 2006-NMSC-034, ¶ 14, 140 N.M. 77, 140 P.3d 498 (emphasis added). The State argues we should consider the issue raised in its appeal because the issue presented is a matter of substantial public interest and presents an issue capable of repetition yet evading review. [2 MIO 4–5] However, as we noted in our proposed disposition, “[t]he Court's review of moot cases that either raise an issue of substantial public interest or are capable of repetition yet evading review is discretionary.” *Republican Party of New Mexico v. N.M. Taxation and Revenue Dep't*, 2012-NMSC-026, ¶ 10, 283 P.3d 853, *citing Cobb v. N.M. State Canvassing Bd.*, 2006-NMSC-034, ¶ 14 (noting the Court “*may* review moot cases” that fall within either of the two exceptions (emphasis added)). Despite the State's arguments, we decline to review the case.

{3} We therefore exercise our discretion to decline to review the issue and dismiss this case as moot.

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

**RODERICK T. KENNEDY, Judge**

**WE CONCUR:**

**LINDA M. VANZI, Judge**

**STEPHEN G. FRENCH, Judge**