IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

MELINDA GABRIELLA VALENZUELA,
Plaintiff/Appellant,

v.

THE STATE OF ARIZONA,
Defendant/Appellee.

Nos. 2 CA-CV 2016-0069 and 2 CA-CV 2016-0121 (Consolidated)
Filed October 7, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pinal County
No. S1100CV201500956
The Honorable Stephen F. McCarville, Judge

APPEAL DISMISSED

Melinda Gabriella Valenzuela, Buckeye
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Howard authored the decision of the Court, in which Judge Espinosa and Judge Staring concurred.

H O W A R D, Presiding Judge:

¶1 In this consolidated appeal, appellant Melinda Valenzuela challenges the trial court's orders denying deferral of fees and its judgment dismissing, without prejudice, her complaint against the State of Arizona. Because we lack jurisdiction, we dismiss the appeal.

¶2 An appellant has a duty to identify the jurisdictional basis of an appeal under Rule 13(a)(4), Ariz. R. Civ. App. P. "We, in turn, have an independent duty to confirm our jurisdiction over the appeal before us." *Anderson v. Valley Union High Sch., Dist. No. 22*, 229 Ariz. 52, ¶ 2, 270 P.3d 879, 881 (App. 2012).

¶3 In her opening brief, Valenzuela fails to specify the basis of this court's appellate jurisdiction and fails to provide any "citations of legal authorities and . . . references to the . . . record" on the issue of jurisdiction. Ariz. R. Civ. App. P. 13(a)(7)(A). "It is not incumbent upon [this] court to develop an argument for a party." *Ace Auto. Prods., Inc. v. Van Duyne*, 156 Ariz. 140, 143, 750 P.2d 898, 901 (App. 1987). Litigants who represent themselves are held to the same standards as attorneys in terms of complying with procedural rules. *In re Marriage of Williams*, 219 Ariz. 546, ¶ 13, 200 P.3d 1043, 1046 (App. 2008). Accordingly, Valenzuela's appeal is subject to dismissal on this basis alone. *See Adams v. Valley Nat'l Bank of Ariz.*, 139 Ariz. 340, 342, 678 P.2d 525, 527 (App. 1984) (failure to comply with rules of civil procedure sufficient ground to dismiss appeal).

¶4 Nonetheless, we will briefly review the jurisdictional defects in Valenzuela's appeal. On September 30 and October 12, 2015, the trial court denied Valenzuela's requests for deferral of service fees. Valenzuela filed her first notice of appeal on November 11, 2015,[1] challenging the court's October 12 ruling. That ruling was

[1]Valenzuela's first and third notices of appeal were filed with the superior court more than thirty days after the respective, relevant orders. The dates noted in the notices of appeal themselves, however, are within thirty days of the relevant orders. In the interests of judicial economy, we will assume that the prisoner

not a final order because it did not resolve the merits of her case against the state. *See Ruesga v. Kindred Nursing Ctrs., L.L.C.*, 215 Ariz. 589, ¶ 10, 161 P.3d 1253, 1257 (App. 2007) (a final order leaves "no question open for judicial determination"), *quoting Props. Inv. Enters., Ltd. v. Found. for Airborne Relief, Inc.*, 115 Ariz. 52, 54, 563 P.2d 307, 309 (App. 1977). Thus, the November 11, 2015 notice of appeal did not challenge a final order, and was "ineffective." *Craig v. Craig*, 227 Ariz. 105, ¶ 13, 253 P.3d 624, 626 (2011).

¶5 On February 22, 2016, the trial court dismissed Valenzuela's case, without prejudice, because she had never submitted verification of service. On March 19, 2016, Valenzuela appealed that decision. "A dismissal without prejudice is not a final judgment and is therefore generally not appealable." *Canyon Ambulatory Surgery Ctr. v. SCF Ariz.*, 225 Ariz. 414, ¶ 14, 239 P.3d 733, 737-38 (App. 2010). Thus, this notice of appeal was likewise ineffective. *Craig*, 227 Ariz. 105, ¶ 13, 253 P.3d at 626.

¶6 On May 19, 2016, the trial court issued an order amending its October 12, 2015 ruling denying deferral of fees to include a certification of finality pursuant to Rule 54(c), Ariz. R. Civ. P. On June 16, 2016, Valenzuela filed a notice of appeal challenging "the dismissal of the case . . . received June 5, 2016." To that notice of appeal, Valenzuela attached both the court's May 19, 2016 order, and the amended October 12 order denying her request for deferral of fees. We are uncertain which ruling the June 16 notice of appeal was intended to challenge because the record does not contain a June 5 order. But assuming Valenzuela attempted to challenge the amended May 19 order, as noted above,[2] denial of

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mailbox rule would apply and that the dates on the notices would coincide with "when the notice of appeal was delivered to prison authorities." *See State v. Goracke*, 210 Ariz. 20, ¶¶ 6, 11, 106 P.3d 1035, 1037-38 (App. 2005), *quoting Mayer v. State*, 184 Ariz. 242, 245, 908 P.2d 56, 59 (App. 1995). We make no finding in that regard, and construe the dates on the notices of appeal as their filing dates only for the purposes of our analysis.

[2]The trial court could have retained jurisdiction despite the March 19 notice of appeal because it was filed from a clearly

deferral of fees is not an appealable, final order.[3] *See Ruesga*, 215 Ariz. 589, ¶ 10, 161 P.3d at 1257; *see also Madrid v. Avalon Care Ctr.-Chandler, L.L.C.*, 236 Ariz. 221, ¶ 11, 338 P.3d 328, 331 (App. 2014) ("The inclusion of Rule 54(c) language in a judgment that does not resolve all claims by all parties is not a final judgment and, accordingly, this court lacks appellate jurisdiction over such a judgment.").

¶7 Because Valenzuela has failed to establish appellate jurisdiction in accordance with Rule 13, and because in any event we lack jurisdiction, the appeal is dismissed.

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unappealable order and ineffective. *See In re Marriage of Johnson & Gravino*, 231 Ariz. 228, ¶ 11, 293 P.3d 504, 508 (App. 2012) ("A notice of appeal that is ineffective and a nullity . . . should not interrupt the trial court proceedings.").

[3]We note that an order amending a previous order is likewise not an appealable order. *See Ruesga*, 215 Ariz. 589, ¶ 10, 161 P.3d at 1257.