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

2       **STATE OF NEW MEXICO,**

3             Plaintiff-Appellant,

4       v.

**NO. 34,969**

5       **JERI STEVENS,**

6             Defendant-Appellee.

7       **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8       **Sandra A. Price, District Judge**

9       Hector H. Balderas, Attorney General

10       Santa Fe, NM

11       John Kloss, Assistant Attorney General

12       Albuquerque, NM

13       for Appellant

14       Bennett J. Baur, Chief Public Defender

15       Santa Fe, NM

16       for Appellee

17                                       **MEMORANDUM OPINION**

18       **KENNEDY, Judge.**

1 {1} The State appeals following the district court’s entry of findings of fact and  
2 conclusions of law and remand order to the magistrate court for correction of its  
3 judgment and sentence. [DS 1; RP 64–66] This Court issued a notice proposing to  
4 dismiss the appeal for lack of a final order. [1 CN 1,4] Following the State’s  
5 memorandum in opposition, in which the State argued this Court has jurisdiction to  
6 hear its appeal [1 MIO 4–11], this Court issued a second notice proposing to dismiss  
7 the appeal on mootness grounds [2 CN 1, 4]. The State filed a second memorandum  
8 in opposition, which we have duly considered. Remaining unpersuaded, we decline  
9 to exercise our discretion to consider the issue in this case, and we dismiss the appeal  
10 as moot.

11 {2} As we pointed out in our second proposed disposition, it appears Defendant  
12 completed her probation on April 28, 2015, and the State’s argument became moot  
13 when Defendant completed her probationary period. [CN 2–3] As we noted in our last  
14 notice proposing to dismiss, this Court “*may* review moot cases that present issues of  
15 (1) substantial public interest or (2) which are capable of repetition yet evading  
16 review.” *Cobb v. N.M. State Canvassing Bd.*, 2006-NMSC-034, ¶ 14, 140 N.M. 77,  
17 140 P.3d 498 (emphasis added). The State argues we should consider the issue raised  
18 in its appeal because the issue presented is a matter of substantial public interest and  
19 presents an issue capable of repetition yet evading review. [2 MIO 4–5] However, as  
20 we noted in our proposed disposition, “[t]he Court’s review of moot cases that either

1 raise an issue of substantial public interest or are capable of repetition yet evading  
2 review is discretionary.” *Republican Party of New Mexico v. N.M. Taxation and*  
3 *Revenue Dep’t*, 2012-NMSC-026, ¶ 10, 283 P.3d 853, *citing Cobb v. N.M. State*  
4 *Canvassing Bd.*, 2006-NMSC-034, ¶ 14 (noting the Court “*may* review moot cases”  
5 that fall within either of the two exceptions (emphasis added)). Despite the State’s  
6 arguments, we decline to review the case.

7 {3} We therefore exercise our discretion to decline to review the issue and dismiss  
8 this case as moot.

9 {4} **IT IS SO ORDERED.**

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**RODERICK T. KENNEDY, Judge**

12 **WE CONCUR:**

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**LINDA M. VANZI, Judge**

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**STEPHEN G. FRENCH, Judge**