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

2 **STATE OF NEW MEXICO ex rel.**

3 **KARI E. BRANDENBURG,**

4 Petitioner-Appellant,

5 v.

No. 35,327

6 **THE HONORABLE ROSEMARY**

7 **COSGROVE-AGUILAR,**

8 **METROPOLITAN COURT JUDGE,**

9 Respondent-Appellee,

10 and

11 **MAURICE JACKSON,**

12 Real Party in Interest.

13 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

14 **Nan G. Nash, District Judge**

15 Chris Lackmann, Assistant District Attorney

16 Albuquerque, NM

17 for Petitioner-Appellant

18 Bennett J. Baur, Acting Chief Public Defender

19 Christopher Dodd, Assistant Appellate Defender

20 Albuquerque, NM

1 for Real Party in Interest

2 **MEMORANDUM OPINION**

3 **BUSTAMANTE, Judge.**

4 {1} The State has appealed from an order of the district court denying its petition
5 for peremptory writ of prohibition or supervisory control. We previously issued a
6 notice of proposed summary disposition, proposing to affirm.

7 {2} The State has filed a motion to dismiss the instant appeal, which is opposed. As
8 grounds, the State contends that “the underlying legal issues are currently pending
9 before the Second Judicial District Court in a direct appeal” from the metropolitan
10 court’s dismissal of the proceedings. [Mot. 1] The State suggests that allowing the
11 parties to “first litigate the underlying legal issues” in the course of the appeal to the
12 district court “would conserve . . . judicial resources.” [Mot. 1] We disagree. In light
13 of the State’s expressed intent, dismissal of the instant appeal would conserve no
14 resources; to the contrary, it would appear to invite relitigation of an issue, the merits
15 of which have already been addressed by both this Court (in the notice of proposed
16 summary disposition), and the district court (in its order denying the petition for
17 peremptory writ of prohibition or supervisory control). Such an eventuality would
18 waste, rather than conserve, judicial resources. *See generally Cordova v. Larsen,*

1 2004-NMCA-087, ¶ 10, 136 N.M. 87, 94 P.3d 830 (discussing the law of the case
2 doctrine, under which a decision made at one stage of a case becomes a binding
3 precedent in successive stages of the same litigation, thereby precluding unnecessary
4 relitigation of legal issues); *Stroh Brewery Co. v. Director of N.M. Dep't of Alcoholic*
5 *Beverage Control*, 1991-NMSC-072, ¶ 46, 112 N.M. 468, 816 P.2d 1090
6 (Montgomery, J., dissenting) (“The law of the case doctrine prevents relitigation of
7 issues already determined; the policy underlying the doctrine is to conserve judicial
8 and litigants’ resources by avoiding repetitious litigation.”). We therefore deny the
9 State’s motion to dismiss.

10 {3} Turning to the merits, the State has filed no memorandum in opposition, and the
11 time for so doing has elapsed.

12 {4} Accordingly, for the reasons stated in our notice of proposed summary
13 disposition, we affirm.

14 {5} **IT IS SO ORDERED.**

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MICHAEL D. BUSTAMANTE, Judge

17 **WE CONCUR:**

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JAMES J. WECHSLER, Judge

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TIMOTHY L. GARCIA, Judge