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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. 32,424**

5           **JUAN CARLOS MARTINEZ,**

6                           Defendant-Appellee.

7           **APPEAL FROM THE DISTRICT COURT OF DON`A ANA COUNTY**

8           **Douglas R. Driggers, District Judge**

9           Hector H. Balderas, Attorney General

10          Margaret McLean, Assistant Attorney General

11          Santa Fe, NM

12          for Appellant

13          Jorge A. Alvarado, Chief Public Defender

14          Kimberly Chavez-Cook, Assistant Appellate Defender

15          Santa Fe, NM

16          for Appellee

17   **MEMORANDUM OPINION**

18          **FRY, Judge.**

19          {1}     The State appealed an order of the district court excluding the minor victim's

1 testimony in this case. Our third notice of proposed disposition suggested the  
2 possibility that this appeal is moot and/or nonjusticiable. In response, the State  
3 indicates that a nolle prosequi was filed in the district court on September 27, 2013.  
4 The State adds that due to the nolle prosequi, “the appeal may be summarily  
5 dismissed.” [Resp. 2] Since the prosecution underlying this appeal has ended, any  
6 ruling we might make on the evidentiary issue would not afford the State any relief,  
7 and the State’s appeal is therefore moot. *See State v. Sergio B.*, 2002-NMCA-070, ¶ 9,  
8 132 N.M. 375, 48 P.3d 764 (pointing out that an appeal is moot when a ruling from  
9 the appellate court will not grant the appellant any actual relief). We therefore dismiss  
10 the appeal.

11 {2} **IT IS SO ORDERED.**

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CYNTHIA A. FRY, Judge

14 **WE DO CONCUR:**

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JAMES J. WECHSLER, Judge

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LINDA M. VANZI, Judge