

STATE V. BARRS

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STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JOE BARRS,
Defendant-Appellant.

NO. 29,543

COURT OF APPEALS OF NEW MEXICO

July 19, 2010

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Robert Schwartz,
District Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, for Appellee

Hugh W. Dangler, Chief Public Defender, Allison H. Jaramillo, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

JAMES J. WECHSLER, Judge. WE CONCUR: CYNTHIA A. FRY, Chief Judge,
TIMOTHY L. GARCIA, Judge

AUTHOR: JAMES J. WECHSLER

MEMORANDUM OPINION

WECHSLER, Judge.

Defendant appeals the sentence imposed on him pursuant to his plea agreement. We proposed to dismiss the appeal reasoning that, because Defendant entered into a plea agreement, he is not an aggrieved party and is not entitled to appeal. We have received

a response from Defendant in which he does not dispute our proposal that he is not an aggrieved party, but does claim that his counsel was ineffective. Defendant claims that his counsel informed him that he would receive only probation if he signed the plea agreement. However, there is nothing in the record to support Defendant's claim. See *State v. Hunter*, 2001-NMCA-078, ¶ 18, 131 N.M. 76, 33 P.3d 296 ("Matters not of record present no issue for review."). We note that, where the record does not include documentation essential to a claim of ineffective assistance of counsel, habeas corpus proceedings are the preferred method for addressing such claims. *State v. Grogan*, 2007-NMSC-039, ¶ 9, 142 N.M. 107, 163 P.3d 494.

For the reasons discussed in our calendar notice, we dismiss the appeal.

IT IS SO ORDERED.

JAMES J. WECHSLER, Judge

WE CONCUR:

CYNTHIA A. FRY, Chief Judge

TIMOTHY L. GARCIA, Judge