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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40450

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

STEFAN VARELA,

Defendant-Appellee.

APPEAL FROM THE DISTRICT COURT OF COLFAX COUNTY
Melissa A. Kennelly, District Judge

Hector H. Balderas, Attorney General
Laurie K. Blevins, Assistant Attorney General
Santa Fe, NM

for Appellant

Bennett J. Baur, Chief Public Defender
Santa Fe, NM

for Appellee

MEMORANDUM OPINION

IVES, Judge.

{1} The State appeals from the district court's order on the State's motion in limine and dismissing the case with prejudice for failure to prosecute. On appeal, the State claimed that the district court erred in making several preliminary evidentiary rulings based on proffered material in the State's motion in limine, and the State did not challenge the dismissal of the case for failure to prosecute. This Court issued a notice of proposed disposition, proposing to affirm the district court. Now, the State has filed a response to our notice of proposed disposition and announced that it will not file a memorandum in opposition.

{2} Accordingly, we rely on the reasoning contained in our notice of proposed disposition, and we affirm the district court.

{3} IT IS SO ORDERED.

ZACHARY A. IVES, Judge

WE CONCUR:

SHAMMARA H. HENDERSON, Judge

JANE B. YOHALEM, Judge