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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v. **NO. 30,990**

BYRON CUSTER,

Defendant-Appellee,

APPEAL FROM THE DISTRICT COURT OF McKINLEY COUNTY
Grant L. Foutz, District Judge

Gary K. King, Attorney General
Andrea Sassa, Assistant Attorney General
Santa Fe, NM

for Appellant

Steven F. Seeger
Gallup, NM

for Appellee

MEMORANDUM OPINION

VIGIL, Judge.

The State appeals dismissal of charges against Defendant. In our notice, we

proposed to affirm the dismissal. The State has responded that it does not contest our proposal.

Therefore, for the reasons stated in our notice, we affirm.

IT IS SO ORDERED.

MICHAEL E. VIGIL, Judge

WE CONCUR:

JONATHAN B. SUTIN, Judge

TIMOTHY L. GARCIA, Judge