

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

Court of Appeals of New Mexico
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2 **STATE OF NEW MEXICO,**

3 Plaintiff-Appellee,

4 v.



Mark Reynolds

No. A-1-CA-39943

5 **JACOB CARROLL,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY**

8 **Jane Shuler Gray, District Court Judge**

9 Raúl Torrez, Attorney General

10 Santa Fe, NM

11 Walter Hart, Assistant Attorney General

12 Albuquerque, NM

13 for Appellee

14 Bennett J. Baur, Chief Public Defender

15 Nina Lalevic, Assistant Appellate Defender

16 Santa Fe, NM

17 for Appellant

18 **DECISION**

19 **ATTREP, Chief Judge.**

20 {1} Defendant Jacob Carroll appeals the district court's order revoking his
21 probation. On appeal, Defendant argues his right to due process was violated in
22 multiple ways and contends the petition to revoke his probation should have been
23 dismissed for violation of the time limits in Rule 5-805 NMRA. Because

1 Defendant’s appeal is moot and he has not convinced us that we should exercise our
2 discretion to reach the merits, we dismiss this appeal.

3 {2} As Defendant acknowledges, his appeal is moot. Defendant has completed his
4 sentence, and he does not allege the existence of collateral consequences from the
5 revocation of his probation. Under such circumstances, any ruling from this Court
6 could not grant Defendant any actual relief, and his appeal accordingly is moot. *See*
7 *State v. Wilson*, 2005-NMCA-130, ¶ 14, 138 N.M. 551, 123 P.3d 784 (providing the
8 defendant’s appeal was moot “because he has completed serving his full sentence
9 and cannot prove the existence of collateral consequences”), *aff’d*, 2006-NMSC-
10 037, 140 N.M. 218, 141 P.3d 1272; *State v. Sergio B.*, 2002-NMCA-070, ¶ 9, 132
11 N.M. 375, 48 P.3d 764 (“An appeal is moot when no actual controversy exists, and
12 an appellate ruling will not grant the appellant any actual relief.”). Generally,
13 “appellate courts should not decide moot cases.” *Sergio B.*, 2002-NMCA-070, ¶ 9;
14 *see also Citizens for Fair Rates & the Env’t v. N.M. Pub. Regul. Comm’n*, 2022-
15 NMSC-010, ¶ 28, 503 P.3d 1138 (providing that the “prudential rules of judicial
16 self-governance, like standing, ripeness, and mootness, are founded in a concern
17 about the proper—and properly limited—role of courts in a democratic society”
18 (alteration, internal quotation marks, and citation omitted)). We, however, “may
19 review moot cases that present issues of substantial public interest or which are
20 capable of repetition yet evade review.” *Gunaji v. Macias*, 2001-NMSC-028, ¶ 10,

1 130 N.M. 734, 31 P.3d 1008. Our decision to review a moot case “is discretionary.”
2 *Republican Party of N.M. v. N.M. Tax’n & Revenue Dep’t*, 2012-NMSC-026, ¶ 10,
3 283 P.3d 853.

4 {3} Notwithstanding Defendant’s appeal being moot, he urges us to exercise our
5 discretion to decide the merits of his appeal under an exception to the mootness
6 doctrine.¹ Specifically, Defendant first argues that “[t]he claims raised here are
7 viable on appeal as the violations are capable of repetition yet evading review during
8 an often lengthy appellate process.” This is the extent of Defendant’s argument on
9 this point. We find it undeveloped and thus do not consider it. *See State v.*
10 *Candelaria*, 2019-NMCA-032, ¶ 48, 446 P.3d 1205 (declining to address an
11 undeveloped claim); *see also State v. Guerra*, 2012-NMSC-014, ¶ 21, 278 P.3d 1031
12 (providing that appellate courts are under no obligation to review undeveloped
13 arguments).

14 {4} Next, Defendant argues that “[b]ecause many probationers will presumably
15 face this prosecutor, who believes discovery is not required, and this judge, who does

¹The State in its answer brief does not respond to Defendant’s arguments relating to mootness. From this, Defendant contends that the State concedes his appeal is not moot. This is incorrect. *Cf. Lozano v. GTE Lenkurt, Inc.*, 1996-NMCA-074, ¶ 30, 122 N.M. 103, 920 P.2d 1057 (providing that an “answer brief need not specifically answer each assignment of error made by [the] appellant” and the failure of an answer brief to do so is not in itself grounds for reversal). Regardless, even if we were to treat the State’s silence as a concession, we are under no obligation to accept it. *See State v. Caldwell*, 2008-NMCA-049, ¶ 8, 143 N.M. 792, 182 P.3d 775 (providing that this Court “is not bound by the [s]tate’s concession”).

1 [sic] protect a probationer’s due process rights, the case also presents an issue of
2 substantial public importance.” As we understand it, Defendant is arguing that the
3 purported errors below should be corrected—even though no actual relief can be
4 granted—because the actors in this case may err in the future. Defendant cites no
5 authority in support of his contention that this situation presents “the requisite degree
6 of public interest . . . to prevent dismissal on mootness grounds.” *See State v. Jones*,
7 1998-NMCA-076, ¶ 15, 125 N.M. 556, 964 P.2d 117; *see also State v. Casares*,
8 2014-NMCA-024, ¶ 18, 318 P.3d 200 (“We will not consider an issue if no authority
9 is cited in support of the issue, because absent cited authority to support an argument,
10 we assume no such authority exists.”). Nor has Defendant otherwise convinced us
11 that it does. The substantial public interest exception generally has been applied to
12 cases whose resolution may have a broad impact—for example, in cases examining
13 the parameters of the separation of powers doctrine and the scope of the executive
14 privilege. *See Mowrer v. Rusk*, 1980-NMSC-113, ¶ 15, 95 N.M. 48, 618 P.2d 886
15 (separation of powers); *Republican Party of N.M.*, 2012-NMSC-026, ¶ 11 (executive
16 privilege); *see also id.* ¶ 10 (“A case presents an issue of substantial public interest
17 if it involves a constitutional question or affects a fundamental right such as
18 voting.”). We find no similar concerns in this case. And in the absence of any
19 reasoned argument from Defendant why the substantial public interest exception


1 applies in his case, we do not apply it. *See Candelaria*, 2019-NMCA-032, ¶ 48; *see*
2 *also Guerra*, 2012-NMSC-014, ¶ 21.

3 {5} For the foregoing reasons, we decline to exercise our discretion to decide
4 Defendant’s moot appeal. We therefore dismiss.

5 {6} **IT IS SO ORDERED.**

6 
7 **JENNIFER L. ATKER, Chief Judge**

8 **WE CONCUR:**

9 
10 **JACQUELINE R. MEDINA, Judge**

11 
12 **ZACHARY A. IVES, Judge**