

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

Court of Appeals of New Mexico

2 **BOBACK SABEERIN,**

Filed 2/23/2026 12:27 PM

3 Plaintiff-Appellant,



Mark Reynolds

4 v.

**No. A-1-CA-41777**

5 **ALBUQUERQUE POLICE**  
6 **DEPARTMENT, APD**  
7 **DETECTIVE TIM FASSLER,**  
8 **in his individual capacity,**  
9 **APD DETECTIVE JOHN DEAR,**  
10 **in his individual capacity,**  
11 **CITY OF ALBUQUERQUE,**

12 Defendants-Appellees.

13 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

14 **Nancy J. Franchini, District Court Judge**

15 Boback Sabeerin  
16 Kissimmee, FL

17 Pro Se Appellant

18 City of Albuquerque Legal Department  
19 Lauren Keefe, City Attorney  
20 Kristin J. Dalton, Special Counsel  
21 Albuquerque, NM

22 for Appellee City of Albuquerque

23 YLAW, P.C.  
24 Sean E. Garrett  
25 Albuquerque, NM

26 for Appellee John Dear

1 **MEMORANDUM OPINION**

2 **YOHALEM, Judge.**

3 {1} Plaintiff Boback Sabeerin<sup>1</sup> appeals, without the assistance of counsel, from  
4 the district court’s dismissal of his civil rights and torts complaint against the City  
5 of Albuquerque, the Albuquerque Police Department (APD), and two detectives  
6 employed by APD (collectively, Defendants), as time-barred by the statute of  
7 limitations. Not persuaded that the district court erred, we affirm the dismissal.

8 **BACKGROUND**

9 {2} On August 18, 2023, Sabeerin filed the complaint at issue in this appeal in  
10 Bernalillo County (the Second Judicial District Court) alleging violations of his  
11 federal constitutional rights, including his Fourth Amendment right prohibiting  
12 unreasonable search and seizure and his Eighth Amendment right to be free from  
13 cruel and unusual punishment, relying on 42 U.S.C. § 1983, and alleging similar  
14 violations of New Mexico constitutional provisions as well as tort claims under the  
15 New Mexico Tort Claims Act (TCA), NMSA 1978, §§ 41-4-1 to -27, -30 (1976, as  
16 amended through 2020). Sabeerin’s 2023 Bernalillo County complaint alleged  
17 violations of his civil rights and tortious conduct by APD officers dating back to a

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<sup>1</sup>Plaintiff’s minor daughter and his domestic partner are also named as plaintiffs. They allege loss of consortium. Because the civil rights and tort claims all arise out of conduct involving Sabeerin, we refer only to Sabeerin in describing the claims and proceedings.

1 search of his business in August 2009 leading to his arrest and conviction for  
2 multiple felonies. *See State v. Sabeerin*, 2014-NMCA-110, ¶¶ 1-2, 5, 336 P.3d 990.  
3 Sabeerin attempted to suppress the evidence from the search in each of the criminal  
4 prosecutions relying on that evidence, arguing that there was no probable cause for  
5 the search and that it violated his rights under the Fourth Amendment to the United  
6 States Constitution and Article II, Section 10 of the New Mexico Constitution.  
7 *Sabeerin*, 2014-NMCA-110, ¶¶ 2, 7. The district court denied Sabeerin’s motion to  
8 suppress in each of the criminal proceedings, and he was tried and convicted based  
9 on the evidence seized from his business. *Id.* ¶ 2. Sabeerin appealed his convictions  
10 to this Court. *Id.* ¶ 1.

11 {3} In 2014, after Sabeerin had served six years in prison, this Court concluded  
12 on appeal that his Fourth Amendment rights had been violated and his motions to  
13 suppress were erroneously denied, and reversed his convictions. *Id.* ¶¶ 1-2.  
14 Following a delay during which the State sought a writ of certiorari in our Supreme  
15 Court on November 17, 2015, the district court dismissed the criminal charges  
16 against Sabeerin and released Sabeerin from prison. The State relies on the  
17 November 17, 2015, date as the date the statute of limitations on Sabeerin’s torts and  
18 constitutional claims began to run. We accept this date as well for purposes of this  
19 opinion.

1 {4} Sabeerin filed his Bernalillo County complaint—the complaint at issue in this  
2 appeal—on August 18, 2023. It is the third complaint that Sabeerin has filed, and  
3 Sabeerin asserts that it alleges the same federal and state constitutional violations  
4 and tort causes of action against Albuquerque law enforcement alleged in Sabeerin’s  
5 first complaint in federal court on May 27, 2016. That case was pending in federal  
6 court until April 1, 2021, when the federal district court dismissed Sabeerin’s federal  
7 claims on qualified immunity grounds, without reaching the merits of those claims.  
8 The federal court declined to exercise supplemental jurisdiction over Sabeerin’s state  
9 law claims, and dismissed the state constitutional and tort claims without prejudice.

10 {5} On May 5, 2021, a month after the federal court dismissed his first complaint,  
11 Sabeerin filed the identical complaint, including his federal law claims, in state  
12 district court in Valencia County. Because Sabeerin included federal claims that had  
13 been dismissed with prejudice by the federal court, Defendants removed the case to  
14 federal court. The federal court again dismissed Sabeerin’s federal claims on  
15 September 19, 2021, this time without prejudice on res judicata grounds, and granted  
16 Sabeerin’s motion to remand the state law claims back to Valencia County district  
17 court. Sabeerin appealed the federal court’s dismissal to the Tenth Circuit Court of  
18 Appeals.

19 {6} When the case returned to Valencia County District Court after the Tenth  
20 Circuit affirmed the dismissal of the federal claims, *see Sabeerin v. Albuquerque*

1 *Police Dep't*, No. 21-2046, 2022 WL 1013809, at \*7 (10th Cir. Apr. 5, 2022),  
2 Defendants filed a motion to dismiss without prejudice for improper venue, which  
3 was granted. Sabeerin then appealed the dismissal of his Valencia County complaint  
4 to this Court. This Court affirmed in July 2023. *See Sabeerin v. Albuquerque Police*  
5 *Dep't*, A-1-CA-40338, mem. op. (N.M. Ct. App. July 24, 2023) (nonprecedential).

6 {7} On August 18, 2023, Sabeerin filed the complaint at issue in this appeal in  
7 state district court, this time in Bernalillo County (the correct venue), and again  
8 pleaded both his federal and state law claims. Defendants filed a motion to dismiss  
9 with prejudice pursuant to Rule 1-012 NMRA, asserting that Sabeerin's state law  
10 claims were barred by both the two-year statute of limitations for claims under the  
11 TCA, Section 41-4-15, and by the three-year statute of limitations for personal injury  
12 actions, NMSA 1978, § 41-4A-7 (2021), if that statute applied.<sup>2</sup>

13 {8} Defendants argued in support of their motion to dismiss that the events  
14 complained of in Sabeerin's complaint—the search of his business and his arrest  
15 without probable cause—occurred on August 19, 2009, fourteen years before the  
16 Bernalillo County complaint was filed. Defendants argued that, even applying the  
17 November 17, 2015, date of the dismissal of the criminal charges and Sabeerin's  
18 release from prison as the date the statute of limitations commenced to run, his

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<sup>2</sup>Defendants argued again that Sabeerin's federal claims were barred by res  
judicata. The parties agree that res judicata bars these claims, and their dismissal is  
not at issue on appeal.

1 Bernalillo County complaint was filed seven years later—well beyond even the  
2 three-year statute of limitations.

3 {9} Sabeerin responded to Defendants’ motion to dismiss on statute of limitations  
4 grounds by arguing that he had proceeded expeditiously in pursuing each of his  
5 lawsuits. Sabeerin claimed that Defendants’ tactics were responsible for the long  
6 delay in properly filing his state claims in Bernalillo County. Sabeerin argued that  
7 Defendants were required to have raised their objection to venue in Valencia County  
8 before the case was dismissed by the federal court so that he could have correctly  
9 filed in Bernalillo County. Sabeerin also claimed that the dismissal of his Valencia  
10 County complaint by the district court was improper because he had been ordered  
11 by the federal court to file in Valencia County and the federal court order controlled  
12 the place of filing under the Supremacy Clause of the United States Constitution.

13 {10} At the hearing on Defendants’ motion to dismiss before the district court,  
14 Defendants argued that the statute of limitations had expired due to the passage of  
15 more than seven years between the date Sabeerin was released from prison—the  
16 latest date that could be viewed as triggering the statute of limitations—and the filing  
17 of Sabeerin’s Bernalillo County complaint. Sabeerin argued in response, as he did  
18 in his written memorandum, that Defendants’ tactics were responsible for delaying  
19 the progress of his prior lawsuits. Sabeerin claimed that Defendants should have  
20 raised their objection to venue in Valencia County before the state claims were

1 dismissed by the federal court, so that he could have correctly filed in Bernalillo  
2 County.

3 {11} In its decision, the district court stated that it found Defendants' motion to  
4 dismiss well taken because Sabeerin's claims were not brought within any applicable  
5 statute of limitations. On this basis, the district court granted Defendant's motion  
6 and dismissed with prejudice. Sabeerin appealed.

### 7 **DISCUSSION**

8 {12} We understand Sabeerin to raise four issues on appeal: (1) Defendants failed  
9 to raise either their venue or their statute of limitations concerns in their motion to  
10 dismiss the federal claims in federal court; (2) venue was proper in Valencia County  
11 because the federal district court ordered the case remanded to Valencia County; (3)  
12 Sabeerin's second Valencia County complaint was wrongly dismissed on venue  
13 grounds; and (4) Sabeerin's first lawsuit was timely filed on May 27, 2016 in federal  
14 district court and, under the New Mexico savings statute, NMSA 1978, § 37-1-14  
15 (1880), his Bernalillo County complaint must be viewed as a timely-filed  
16 continuation of that lawsuit.

17 {13} Defendants respond by arguing on appeal that it is readily apparent that after  
18 more than seven years Sabeerin's Bernalillo County complaint is barred by the  
19 statute of limitations. In response to Sabeerin's claim on appeal that the savings  
20 statute applies, and that his filing of his third complaint in Bernalillo County after

1 the dismissal of his first two complaints dates back to the filing of his federal lawsuit  
2 in 2016, Defendants argue that Sabeerin failed to preserve this issue in the district  
3 court. Defendants contend that this Court should not consider the savings statute on  
4 appeal given the absence of preservation. In the alternative, if this Court addresses  
5 the merits of Sabeerin’s savings statute argument, Defendants contend that, by its  
6 plain language, the savings statute does not apply to the filing of a third complaint.

7 {14} We note again that Sabeerin represented himself in the district court and is  
8 representing himself in this Court as well. We apply the same standards of conduct  
9 and compliance with court rules, procedures, and orders to self-represented litigants  
10 as we apply to members of the bar. *See In re Camino Real Env’t Ctr., Inc. v. N.M.*  
11 *Dep’t of Env’t*, 2010-NMCA-057, ¶ 21, 148 N.M. 776, 242 P.3d 343. This includes  
12 our rules and precedent governing preservation.

13 {15} We also note that this Court is not required to review arguments that are  
14 unclear, undeveloped or unsupported by any authority in a party’s briefing on appeal.  
15 *See Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53.  
16 Nonetheless, we will review the arguments of a self-represented litigant to the best  
17 of our ability. In conducting this review, we employ a presumption of correctness in  
18 the rulings of the district court, and place the burden on the appellant to clearly  
19 demonstrate error. *See Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-  
20 NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063.

1 {16} Applying these standards, we address each of Sabeerin’s claims in turn.

2 **I. Defendants’ Alleged Failure to Object or Notify Sabeerin of Venue and**  
3 **Statute of Limitations Violations Earlier in the Case**

4 {17} Sabeerin, as he did in the district court, blames Defendants for slowing the  
5 litigation in federal court and for failing to inform him and the federal court of the  
6 proper venue on remand. Sabeerin cites no authority for his claim that Defendants’  
7 counsel owed him a duty to alert him to the proper venue or to the peril of a statute  
8 of limitations bar. We are aware of no authority that would support such an  
9 obligation. “Historically, our court system has always been adversarial in nature.  
10 The role of the attorney therein is to represent and advocate a client’s cause of action  
11 as vigorously as the rules of law and professional ethics will permit.” *Garcia v.*  
12 *Rodey, Dickason, Sloan, Akin & Robb, P.A.*, 1988-NMSC-014, ¶ 14, 106 N.M. 757,  
13 750 P.2d 118. There is no duty to the client’s adversary to provide legal guidance or  
14 to assist the adversary in avoiding pitfalls in the litigation. Sabeerin’s argument is  
15 therefore unavailing.

16 **II. The Federal District Court Did Not Order the Valencia County Court to**  
17 **Accept Jurisdiction or Venue**

18 {18} Sabeerin’s argument that the federal district court ordered the Valencia  
19 County Court to hear his case arises from a misunderstanding by Sabeerin of the  
20 federal court procedure when a case has been removed from a state court to a federal  
21 court. When a state court case is removed to federal court, the federal court is not

1 free to send the case to a new and different state court; it must remand to the district  
2 court where the case originated. The very meaning of the word “remand” is: “The  
3 act or an instance of sending something (such as a case, claim, or person) back for  
4 further action.” *Remand, Black’s Law Dictionary* (12th ed. 2024). The district court  
5 remand order, therefore, did not direct the Valencia County district court to decide  
6 the case; the district court simply returned the case to the state court where Sabeerin  
7 had filed it, allowing that court to pick up where it left off upon removal.  
8 Determining whether venue was proper was well within the authority of the Valencia  
9 County District Court once the case was returned to it on remand.

10 {19} Sabeerin’s brief on appeal also misunderstands the federal district court’s  
11 instruction in its August 17, 2021, proposed findings and recommended disposition,  
12 filed before it entered its final order remanding Sabeerin’s suit back to Valencia  
13 County. Sabeerin appears to rely on a boilerplate notice at the end of the proposed  
14 findings and recommended disposition, signed by the federal judge, that instructed  
15 the parties that they must object to that court’s proposed findings and recommended  
16 disposition within fourteen days of service, or the court would enter a final order.  
17 This standard notice references the time to object to the federal court’s findings  
18 supporting its res judicata dismissal. The federal court order remanding to the state  
19 district court did not set any requirement or time limit governing the proceedings on

1 remand in state court. Defendants were free to object to venue by filing a motion to  
2 dismiss once the case returned to Valencia County.

3 {20} We, therefore, are not persuaded that there was any error.

4 **III. The Valencia County Complaint Was Properly Dismissed for Improper**  
5 **Venue**

6 {21} To the extent Sabeerin argues on appeal that venue was proper in Valencia  
7 County and the district court erred in dismissing his second complaint, this claim  
8 was previously resolved by this Court in *Sabeerin*, A-1-CA-40338. This Court  
9 agreed with the district court that venue was improper and affirmed the district  
10 court’s dismissal of the complaint without prejudice. *Id.* ¶ 3. This is a final decision;  
11 the issue cannot be relitigated in this appeal. We, therefore, do not consider this  
12 claim further.

13 **IV. Sabeerin Did Not Preserve His Savings Statute Argument**

14 {22} Sabeerin argues on appeal that the New Mexico savings statute, Section 37-  
15 1-14, applies to his third-filed complaint in Bernalillo County, and that the savings  
16 statute requires that the Bernalillo County district court treat his complaint as a  
17 continuation of the federal lawsuit he filed in 2016—arguably within the applicable  
18 statute of limitations. Defendants respond that Sabeerin failed to preserve his savings  
19 statute claim in the district court, and argue that this Court should refuse to consider  
20 this unpreserved claim, raised for the first time on appeal.

1 {23} Rule 12-321 NMRA, governing preservation, requires that in order “[t]o  
2 preserve an issue for review, it must appear that a ruling or decision by the trial court  
3 was fairly invoked.” “The party claiming error must have raised the issue below  
4 clearly and have invoked a ruling by the court.” *Diversey Corp. v. Chem-Source*  
5 *Corp.*, 1998-NMCA-112, ¶ 12, 125 N.M. 748, 965 P.2d 332 (citations omitted). In  
6 order to invoke a ruling, a party must assert a legal principle and develop the facts  
7 to support the issue. *See State v. Adame*, 2020-NMSC-015, ¶ 13, 476 P.3d 872. “In  
8 order to preserve an error for appeal, it is essential that the ground or grounds of the  
9 objection or motion be made with sufficient specificity to alert the mind of the trial  
10 court to the claimed error or errors.” *State v. Varela*, 1999-NMSC-045, ¶ 25, 128  
11 N.M. 454, 993 P.2d 1280 (internal quotation marks and citation omitted).

12 {24} Our review of the record shows that Sabeerin did not mention the savings  
13 statute either in his written response to Defendant’s motion to dismiss as barred by  
14 the statute of limitations or at the hearing on Defendants’ motion to dismiss. The  
15 district court’s ruling plainly shows that the court was not put on notice that the  
16 savings statute was in issue, let alone presented with an argument on its application.  
17 We note that Defendants mentioned the savings statute in a few sentences in their  
18 motion to dismiss. When Sabeerin did not mention the savings statute in his written  
19 response, or at the hearing on the motion, Defendants argued only that the Bernalillo  
20 County complaint was barred by the passage of time.

1 {25} As noted above, “[t]he party claiming error must have raised the issue below  
2 clearly and have invoked a ruling by the court.” *Diversey Corp.*, 1998-NMCA-112,  
3 ¶ 12 (citations omitted). Where the opposing party has raised an issue in a few  
4 sentences in a motion or brief and the issue has not been brought to the attention of  
5 the district court, that is not sufficient to preserve the argument for appeal. *See Azar*  
6 *v. Prudential Ins. Co. of Am.*, 2003-NMCA-062, ¶ 25, 133 N.M. 669, 68 P.3d 909  
7 (“An appellant cannot rely on the argument of the opposing party to establish  
8 preservation.”).

9 {26} The three primary purposes of the preservation rule are:

10 (1) to specifically alert the district court to a claim of error so that any  
11 mistake can be corrected at that time, (2) to allow the opposing party a  
12 fair opportunity to respond to the claim of error and to show why the  
13 district court should rule against that claim, and (3) to create a record  
14 sufficient to allow this Court to make an informed decision regarding  
15 the contested issue.

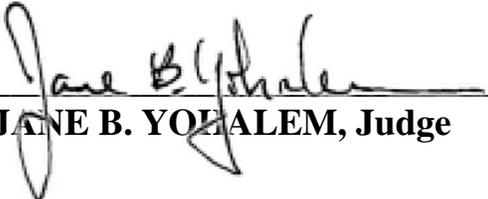
16 *Gerke v. Romero*, 2010-NMCA-060, ¶ 18, 148 N.M. 367, 237 P.3d 111 (internal  
17 quotation marks and citation omitted). In this case, the court’s oral ruling at the  
18 conclusion of the hearing on the motion to dismiss and the court’s final written  
19 judgment rely only on the time that passed between Sabeerin’s release from prison,  
20 when the statute of limitations began to run, and the filing of Sabeerin’s Bernalillo  
21 County complaint—a period which Sabeerin admits exceeded the period allowed by  
22 the statute of limitations. The district court was plainly not alerted to a savings statute  
23 issue, Defendants did not have the opportunity to present a full response, and the

1 record on appeal concerning the complex procedural history of the three complaints  
2 in this case does not include the relevant documents, and is otherwise undeveloped.  
3 Where the purposes of the preservation rule have not been served, we will not review  
4 an argument that is made for the first time on appeal. *See Vigil v. Taintor*, 2020-  
5 NMCA-037, ¶ 8, 472 P.3d 1220.

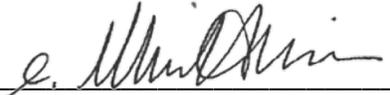
6 **CONCLUSION**

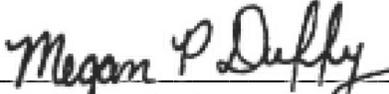
7 {27} We affirm the district court’s order dismissing this case with prejudice as  
8 barred by the statute of limitations.

9 {28} **IT IS SO ORDERED.**

10   
11 **JANE B. YOHALEM, Judge**

12 **WE CONCUR:**

13   
14 **J. MILES HANISEE, Judge**

15   
16 **MEGAN P. DUFFY, Judge**