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

7 **STATE OF NEW MEXICO,**

8 Plaintiff-Appellee,

9 v.

NO. 29,543

10 **JOE BARRS,**

11 Defendant-Appellant.

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

13 **Robert Schwartz, District Judge**

14 Gary K. King, Attorney General

15 Santa Fe, NM

16 for Appellee

17 Hugh W. Dangler, Chief Public Defender

18 Allison H. Jaramillo, Assistant Appellate Defender

19 Santa Fe, NM

20 for Appellant

21 **MEMORANDUM OPINION**

22 **WECHSLER, Judge.**

1 Defendant appeals the sentence imposed on him pursuant to his plea agreement.
2 We proposed to dismiss the appeal reasoning that, because Defendant entered into a
3 plea agreement, he is not an aggrieved party and is not entitled to appeal. We have
4 received a response from Defendant in which he does not dispute our proposal that he
5 is not an aggrieved party, but does claim that his counsel was ineffective. Defendant
6 claims that his counsel informed him that he would receive only probation if he signed
7 the plea agreement. However, there is nothing in the record to support Defendant's
8 claim. *See State v. Hunter*, 2001-NMCA-078, ¶ 18, 131 N.M. 76, 33 P.3d 296
9 ("Matters not of record present no issue for review."). We note that, where the record
10 does not include documentation essential to a claim of ineffective assistance of
11 counsel, habeas corpus proceedings are the preferred method for addressing such
12 claims. *State v. Grogan*, 2007-NMSC-039, ¶ 9, 142 N.M. 107, 163 P.3d 494.

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

14 **IT IS SO ORDERED.**

15 _____
16 **JAMES J. WECHSLER, Judge**

17 **WE CONCUR:**

18 _____
19 **CYNTHIA A. FRY, Chief Judge**

1

2 **TIMOTHY L. GARCIA, Judge**