

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

2   **September 24, 2021**

3                   **NO. 21-8500-023**

4                   **IN THE MATTER OF**  
5                   **THE STAY OF DEADLINES**  
6                   **IN COMPETENCY PROCEEDINGS**  
7                   **AND ESTABLISHMENT OF SCHEDULE**  
8                   **FOR COMPLIANCE WITH RULES 5-602.1 and 5-602.2 NMRA**

9  
10  
11   **ORDER**

12                   WHEREAS, compliance with the deadlines governing adult competency  
13 proceedings set forth in Rules 5-602.1 and 5-602.2 NMRA has been impacted by  
14 the COVID-19 public health emergency and as a result some jurisdictions have a  
15 backlog of cases awaiting competency evaluations;

16                   WHEREAS, the evolving nature of the public health emergency will now  
17 permit the New Mexico Judiciary to begin to comply with the deadlines set forth in  
18 Rules 5-602.1 and 5-602.2 NMRA to ensure “a timely, efficient, and accurate  
19 procedure for resolving whether a defendant is competent to stand trial”; and

20                   WHEREAS, the Court having considered the foregoing and being sufficiently  
21 advised, Chief Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice David K.  
22 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora, concurring;

23                   NOW, THEREFORE, IT IS ORDERED that to the extent the district courts  
24 have not been in compliance with the deadlines set forth in Rules 5-602.1 and 5-

1 602.2 NMRA in cases where orders for competency evaluations were filed **prior to**  
2 **October 1, 2021**, the deadlines for the backlogged cases are STAYED effective  
3 immediately, except as outlined in the schedule provided below;

4 IT IS FURTHER ORDERED that the district courts shall begin to dispose of  
5 the backlog of cases according to the following schedule:

6 1. The district courts shall clear the backlog of cases in which the district  
7 courts have not been in compliance with the deadlines for defendants *in custody* by  
8 **December 1, 2021**; and

9 2. The district courts shall clear the backlog of cases in which the district  
10 courts have not been in compliance with the deadlines for defendants *not in custody*  
11 by **January 1, 2022**; and

12 3. The temporary stay of deadlines for the backlog of cases shall be  
13 LIFTED effective **February 1, 2022**.

14 IT IS FURTHER ORDERED that the deadlines set forth in Rules 5-602.1 and  
15 5-602.2 NMRA shall apply to orders for competency evaluations filed in all cases  
16 **on or after October 1, 2021**, as no stay is in effect for those cases; and

17 IT IS FURTHER ORDERED that the district courts shall use all available  
18 resources to comply with the required deadlines, including the use of audio-visual  
19 means and the use of all licensed forensic evaluators.

20 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 24th day of September, 2021.

  
Jennifer L. Scott, Chief Clerk of the Supreme Court  
of the State of New Mexico