

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

2                                   **February 01, 2022**

3                   **NO. 22-8500-007**

4                   **IN THE MATTER OF THE SUSPENSION OF**  
5                   **PEREMPTORY EXCUSALS IN CRIMINAL CASES**  
6                   **IN THE DISTRICT COURTS, METROPOLITAN COURT,**  
7                   **AND MAGISTRATE COURTS TO STREAMLINE**  
8                   **THE PROCESSING OF CRIMINAL CASES**  
9                   **DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

10                                   **ORDER**

11  
12                   WHEREAS, to facilitate case management processes in the district,  
13 metropolitan, and magistrate courts during the initial phases of the current public  
14 health emergency, a suspension of the exercise of peremptory excusals under Rules  
15 1-088.1, 2-106, 3-106, 5-106, 6-106, 7-106, 10-162, and LR2-308(E) NMRA was  
16 imposed for cases filed on or before December 31, 2020, and was lifted for all cases  
17 filed on or after January 1, 2021;

18                   WHEREAS, on January 18, 2022, the Court issued Order No. 22-8500-003  
19 amending the New Mexico Judiciary’s Emergency Court Protocol No. 3 to reinstate  
20 the suspension of the exercise of peremptory excusals for criminal cases in the  
21 district courts for a period of one year, and to permit a party to a criminal case in the  
22 district court to petition the Chief Justice to effect the excusal of a presiding judge  
23 for cause, Chief Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice David  
24 K. Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora concurring;

25                   NOW, THEREFORE, IT IS ORDERED that, in accordance with the

1 amendment to the New Mexico Judiciary’s Emergency Court Protocol No. 3, to  
2 streamline the processing of criminal cases in the district courts during the ongoing  
3 public health emergency, the suspension of the exercise of peremptory excusals  
4 under Rules 5-106, 10-162, and LR2-308(E) NMRA shall be reinstated for criminal  
5 cases in the district courts **effective *nunc pro tunc* January 18, 2022**, and shall  
6 remain in place for one year, to be lifted **January 18, 2023**;

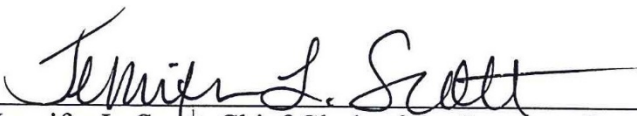
7 IT IS FURTHER ORDERED that, to streamline the processing of criminal  
8 cases in other courts during the ongoing public health emergency, the suspension of  
9 the exercise of peremptory excusals in metropolitan court and the magistrate courts  
10 under Rules 6-106 and 7-106 NMRA shall be reinstated for criminal cases in those  
11 courts **effective February 1, 2022**, and shall remain in place for one year, to be  
12 lifted **February 1, 2023**; and

13 IT IS FURTHER ORDERED that during the suspension of the exercise of  
14 peremptory excusals under Rules 5-106, 6-106, 7-106, 10-162, and LR2-308(E)  
15 NMRA, if a party to a criminal case believes that the presiding judge should be  
16 excused for cause, that party may submit a written petition to the Chief Justice of  
17 the Supreme Court, requesting that the Chief Justice effect the excusal.

18 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 1st day of February, 2022.

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