

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

2 **March 24, 2022**

3
4 **NO. 22-8500-017**

5 **IN THE MATTER OF A PILOT PROJECT**
6 **IN THE SANTA FE COUNTY**
7 **MAGISTRATE COURT AND THE**
8 **BERNALILLO COUNTY**
9 **METROPOLITAN COURT TO INSTITUTE**
10 **MANDATORY STATUS HEARINGS IN**
11 **OUT-OF-CUSTODY CASES PENDING**
12 **PRELIMINARY EXAMINATION**

13
14 **ORDER**

15 WHEREAS, this Court has previously recognized in Order No. 21-8500-026
16 that compliance with the deadlines governing criminal cases has been impacted by
17 the COVID-19 public health emergency, and as a result most jurisdictions have a
18 backlog of criminal cases, including the First and Second Judicial District Courts,
19 the Santa Fe County Magistrate Court, and the Bernalillo County Metropolitan
20 Court;

21 WHEREAS, this Court may exercise its equitable powers and the power of
22 superintending control over pleading and practice in the New Mexico Judiciary to

1 implement measures to facilitate the timely resolution of criminal cases by
2 increasing judicial efficiency and eliminating wasted time and resources;

3 WHEREAS, under Rules 6-202(A)(1) and 7-202(A)(1) NMRA, a preliminary
4 examination must be held within a reasonable time but no later than sixty (60) days
5 for a defendant who is not in custody;

6 WHEREAS, criminal cases for out-of-custody defendants are often resolved
7 through a stipulated waiver, plea agreement, or other settlement agreement,
8 including resolution through a diversionary program;

9 WHEREAS, a mandatory status hearing between the prosecuting authorities
10 and the defendant and defense counsel prior to the preliminary examination would
11 present an earlier opportunity for the parties to resolve the case by the
12 aforementioned means;

13 WHEREAS, earlier resolution of criminal cases will serve to reduce the
14 backlog of criminal cases on the preliminary examination docket, thus promoting
15 judicial economy;

16 WHEREAS, resolution of criminal cases several weeks prior to a scheduled
17 preliminary examination will eliminate the need, under Rules 6-202(B)(3)-(4) and

1 7-202(B)(3)-(4) NMRA, for witnesses including law enforcement officers to appear
2 in court; and

3 WHEREAS, in light of the foregoing, and the Court being sufficiently
4 advised, Chief Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice David K.
5 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora, concurring;

6 NOW, THEREFORE, IT IS ORDERED that in all criminal proceedings filed
7 on or after April 18, 2022, where the defendant is not in custody pending a
8 preliminary examination in the Santa Fe County Magistrate Court or the Bernalillo
9 County Metropolitan Court, a mandatory status hearing with the parties and the
10 defendant appearing in person shall be held at any time between twenty-five (25)
11 and forty-five (45) days prior to the preliminary examination hearing date. The Santa
12 Fe County Magistrate Court and the Bernalillo County Metropolitan Court shall
13 conduct mandatory status hearings in accordance with the following procedures:

14 1. The mandatory status hearing shall be held in person, unless the chief
15 judge of the magistrate or metropolitan court orders otherwise.

16 2. The state shall provide written discovery and any recordings to the
17 defendant and shall file a certification with the court attesting that written discovery

1 has been provided at least five (5) days prior to the mandatory status hearing. If the
2 state fails to comply with this requirement, the court may impose sanctions,
3 including dismissal without prejudice.

4 3. Prior to the mandatory status hearing, the state shall inform the
5 defendant and defense counsel of any and all offers to resolve the case.

6 4. The defendant shall appear in person at the mandatory status hearing.
7 If a defendant fails to appear for the mandatory status hearing, a bench warrant may
8 be issued. If a bench warrant is issued, the preliminary examination hearing shall be
9 vacated.

10 5. If the parties enter into a stipulated waiver, plea agreement, or other
11 resolution that would eliminate the need for a preliminary examination, the parties
12 shall submit the waiver, plea agreement, or other resolution for the trial court's
13 consideration at the status hearing. The court will not accept a waiver, plea
14 agreement, or other resolution of the case on the day of the preliminary examination.

15 6. If no agreement is reached to resolve the case, the preliminary
16 examination hearing shall proceed on the originally scheduled date. Continuance of
17 the status hearing shall be granted only in exceptional circumstances at the discretion

1 of the judge presiding over the matter and after approval of the chief judge of the
2 magistrate or metropolitan court.

3 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 March, 2022.

Sally A. Paez, Acting Clerk of Court
Supreme Court of New Mexico

A handwritten signature in black ink that reads "Sally A. Paez".

Sally A. Paez, Acting Chief Clerk of the Supreme Court
of the State of New Mexico

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