

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

2   **July 29, 2022**

3  
4 **NO. 22-8500-033**

5 **IN THE MATTER OF A PILOT PROJECT**  
6 **IN THE EIGHTH JUDICIAL DISTRICT**  
7 **TO INSTITUTE MANDATORY STATUS**  
8 **HEARINGS IN OUT-OF-CUSTODY CASES**  
9 **PENDING PRELIMINARY**  
10 **EXAMINATION**

11  
12   **ORDER**

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

19                 WHEREAS, this Court may exercise its equitable powers and the power of  
20 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 C. Shannon Bacon, Justice Michael E. Vigil, 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, September 12, 2022, where the defendant is not in custody pending a  
8 preliminary examination in the Eighth Judicial District Court, a mandatory status  
9 hearing with the parties and the defendant appearing in person shall be held at any  
10 time between twenty-five (25) and forty-five (45) days prior to the preliminary  
11 examination hearing date. The Eighth Judicial District Court shall conduct  
12 mandatory status hearings in accordance with the following procedures:

13 1. The mandatory status hearing shall be held in person, unless the chief  
14 judge of the Eighth Judicial District Court orders otherwise.

15 2. The state shall provide written discovery and any recordings to the  
16 defendant and shall file a certification with the court attesting that written discovery  
17 has been provided at least five (5) days prior to the mandatory status hearing. If the

1 state fails to comply with this requirement, the court may impose sanctions,  
2 including dismissal without prejudice.

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

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

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

14 6. If no agreement is reached to resolve the case, the preliminary  
15 examination hearing shall proceed on the originally scheduled date. Continuance of  
16 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 Eighth Judicial District Court.

3 IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 29th day of July, 2022.

A handwritten signature in cursive script that reads "Elizabeth A. Garcia".

Elizabeth A. Garcia, Chief Clerk of the Supreme Court  
of the State of New Mexico

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