

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

2 **September 8, 2023**

3 **NO. S-1-AO-2023-00016**

4 **IN THE MATTER OF THE**
5 **WITHDRAWAL OF NEW MEXICO**
6 **SUPREME COURT ORDER**
7 **NO. 22-8500-021**

8
9 **ORDER**

10 WHEREAS, the Court previously recognized in New Mexico Supreme Court
11 Order No. 22-8500-021, *In the Matter of Convening a Grand Jury in the First*
12 *Judicial District*, that Article II, Section 14 of the New Mexico Constitution requires
13 a grand jury indictment or criminal information following preliminary examination
14 to confer jurisdiction on the district court to try capital, felonious, or infamous
15 crimes;

16 WHEREAS, this Court explained in *Cook v. Smith*, 1992-NMSC-041, ¶ 8,
17 114 N.M. 41, 834 P.2d 418, that Article II, Section 14 of the New Mexico
18 Constitution provides two mechanisms for convening a grand jury;

19 WHEREAS, the first of these mechanisms vests the judiciary with
20 discretionary authority to decide whether to convene a grand jury, *id.*;

21 WHEREAS, the second mechanism is the citizen-initiated grand jury petition,
22 *id.* ¶¶ 6, 8; N.M. Const. art. II, § 14;

1 WHEREAS, pursuant to NMSA 1978, Section 31-6-7(C) (2003), the district
2 attorney, unless otherwise disqualified, is responsible for conducting a grand jury
3 convened in response to a citizen petition;

4 WHEREAS, NMSA 1978, Section 31-6-9 (1993) permits the district court to
5 limit the inquiries of the grand jury, as further confirmed by this Court in *Dist. Ct.*
6 *of Second Jud. Dist. v. McKenna*, 1994-NMSC-102, ¶ 8, 118 N.M. 402, 881 P.2d
7 1387;

8 WHEREAS, Article VI, Section 3 of the New Mexico Constitution confers on
9 this Court superintending control over all inferior courts, including the district
10 courts;

11 WHEREAS, Supreme Court Order No. 22-8500-021 ordered that a district
12 court judge of the First Judicial District Court shall convene a grand jury pursuant
13 to NMSA 1978, Section 31-6-1 (1983);

14 WHEREAS, the Chief Judge of the First Judicial District Court requested that
15 Supreme Court Order No. 22-8500-021 be withdrawn; and

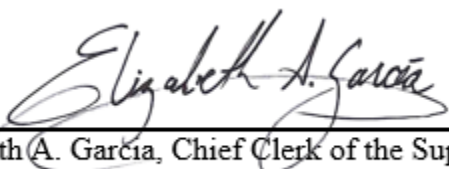
16 WHEREAS, the Court having considered the foregoing and being sufficiently
17 advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil, Justice David K.
18 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora concurring;

1 NOW, THEREFORE, IT IS ORDERED that Supreme Court Order No. 22-
2 8500-021 is hereby WITHDRAWN.

3 IT IS SO ORDERED.



4 WITNESS, the Honorable C. Shannon Bacon, Chief
5 Justice of the Supreme Court of the State of New Mexico,
6 and the seal of said Court this 8th day of September, 2023.

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