

1 **7-506. Time of commencement of trial.**

2 A. **Time limits for arraignment.**

3 (1) *Defendant not in custody.* A defendant who is not in custody shall be
4 arraigned on the complaint or citation within thirty (30) days after the filing of the complaint or
5 citation or the date of arrest, whichever is later.

6 (2) *Defendant in custody.* A defendant who is in custody shall be arraigned on
7 the complaint or citation as soon as practicable, but in any event no later than three (3) days after
8 the date of arrest if the defendant is being held in the local detention center, or no later than five
9 (5) days after the date of arrest if the defendant is not being held in the local detention center.

10 (3) *Following dismissal or discharge of felony charges.* If all felony charges
11 against the defendant have been dismissed or discharged, and the only remaining charges are
12 within metropolitan court trial jurisdiction, the defendant shall be arraigned within thirty (30) days
13 after the date of dismissal or discharge if the defendant is not in custody or two (2) days after the
14 date of dismissal or discharge if the defendant is in custody.

15 B. **Time limits for commencement of trial.** The trial of a criminal citation or
16 complaint shall be commenced within one hundred eighty-two (182) days after whichever of the
17 following events occurs latest:

18 (1) the date of arraignment or the filing of a waiver of arraignment of the
19 defendant;

20 (2) if an evaluation of competency has been ordered, the date an order is filed
21 in the metropolitan court finding the defendant competent to stand trial;

22 (3) if a mistrial is declared by the trial court, the date such order is filed in the
23 metropolitan court;

1 (4) in the event of a remand from an appeal, the date the mandate or order is
2 filed in the metropolitan court disposing of the appeal;

3 (5) if the defendant is arrested for failure to appear or surrenders in this state
4 for failure to appear, the date of arrest or surrender of the defendant;

5 (6) if the defendant is arrested for failure to appear or surrenders in another state
6 or country for failure to appear, the date the defendant is returned to this state; or

7 (7) if the defendant has been referred to a preprosecution or court diversion
8 program, the date a notice is filed in the metropolitan court that the defendant has been deemed
9 not eligible for, is terminated from, or is otherwise removed from the preprosecution or court
10 diversion program.

11 C. **Extension of time.** The time for commencement of trial may be extended by the
12 court:

13 (1) ~~upon~~ on the filing of a written waiver of the provisions of this rule by the
14 defendant and approval of the court;

15 (2) ~~upon~~ on motion of the defendant, for good cause shown, and approval of
16 the court, for a period not exceeding sixty (60) days, ~~provided that~~ but the aggregate of all
17 extensions granted under this subparagraph shall not exceed sixty (60) days;

18 (3) ~~upon~~ on stipulation of the parties and approval of the court, for a period
19 not exceeding sixty (60) days, ~~provided that~~ but the aggregate of all extensions granted under
20 this subparagraph shall not exceed sixty (60) days;

21 (4) ~~upon~~ on withdrawal of a plea ~~[or rejection of a plea]~~ by a defendant for a
22 period of up to sixty (60) days; ~~[or]~~

23 (5) on rejection of a plea by the court for a period of up to sixty (60) days; or

1 ~~[(5)]~~ (6) ~~[upon]~~ on a determination by the court that exceptional
2 circumstances exist that were beyond the control of the state or the court that prevented the case
3 from being heard within the time period and a finding, either on the record or in writing, that the
4 defendant would not be unfairly prejudiced, the court may grant further extensions that are
5 necessary in the interests of justice.

6 D. **Time for filing motion.** A motion to extend the time period for commencement
7 of trial granted under Subparagraph (C)~~[(5)]~~ (6) of this rule may be filed at any time within the
8 applicable time limits or ~~[upon]~~ on exceptional circumstances shown within ten (10) days after the
9 expiration of the time period. At the request of either party, the court shall hold a hearing ~~[prior~~
10 ~~to]~~ before the commencement of trial to determine whether an extension may be appropriately
11 granted.

12 E. **Effect of noncompliance with time limits.**

13 (1) The court may deny an untimely petition for extension of time or may grant
14 it and impose other sanctions or remedial measures, as the court may deem appropriate in the
15 circumstances.

16 (2) In the event the trial of any person does not commence within the time limits
17 provided in this rule, including any court-ordered extensions, the case shall be dismissed with
18 prejudice.

19 [As amended, effective August 1, 1999; August 1, 2004; as amended by Supreme Court Orders
20 No. 08-8300-051 and No. 08-8300-053, effective January 15, 2009; as amended by Supreme Court
21 Order No. 13-8300-019, effective for all cases pending or filed on or after December 31, 2013; as
22 amended by Supreme Court Order No. 16-8300-002, effective for all cases filed on or after May
23 24, 2016; as amended by Supreme Court Order No. 17-8300-005, effective for all cases pending

1 or filed on or after July 1, 2017; as amended by Supreme Court Order No. S-1-RCR-2023-00037,
2 effective for all cases filed on or after December 31, 2024.]

3 **Committee commentary.** —

4 **Exceptional circumstances.** — “Exceptional circumstances,” as used in this rule, would include
5 conditions that are unusual or extraordinary, such as death or illness of the judge, prosecutor, or
6 defense attorney immediately preceding the commencement of the trial; or other circumstances
7 that ordinary experience or prudence would not foresee, anticipate, or provide for. The court may
8 grant an extension for exceptional circumstances only if the court finds that the extension will not
9 unfairly prejudice the defendant. The defendant may move the court to dismiss the case based on
10 a particularized showing that the extension or impending extension would subject the defendant to
11 oppressive pretrial incarceration, anxiety and concern, or the possibility that the defense will be
12 impaired.

13 **Speedy trial.** — This rule is distinct from any speedy trial rights a defendant may have under the
14 constitutions and laws of the United States and the State of New Mexico.

15 **Duty of prosecutor.** — It is the continuing duty of the prosecutor to seek the commencement of
16 trial within the time specified in this rule.

17 [As amended by Supreme Court Order No. 16-8300-002, effective for all cases filed on or after
18 May 24, 2016.]