

1 **7-703.1. On-record appeals from metropolitan court to Court of Appeals.**

2 **A. Right of appeal.**

3 (1) A party who is aggrieved by the judgment or final order in a criminal
4 action, resulting in a conviction of driving under the influence of intoxicating liquor or drugs or a
5 conviction of domestic abuse as defined in Rule 7-702(C) NMRA, may appeal to the Court of
6 Appeals, as permitted by law, by filing a notice of appeal in the metropolitan court within thirty
7 (30) days after the judgment or final order appealed from is filed in the metropolitan court clerk's
8 office in accordance with Rule 7-702(B)(2) NMRA.

9 (2) The additional three (3)-day period set forth in Rule 12-308(B) NMRA for
10 certain kinds of service does not apply to the time limits set forth in Subparagraph (1) of this
11 paragraph.

12 (3) A notice of appeal filed after the announcement of a decision or return of
13 the verdict, but before the judgment or order is filed in the metropolitan court clerk's office, shall
14 be treated as timely filed on the day that the metropolitan court judgment or order is filed.

15 **B. Content of the notice of appeal.** The notice of appeal shall specify:

16 (1) each party taking the appeal and each party against whom the appeal is
17 taken; and

18 (2) the name and address of appellate counsel if different from the person filing
19 the notice of appeal.

20 **C. Attachment to notice of appeal.** A copy of the judgment or order appealed from,
21 showing the date of the judgment or order, shall be attached to the notice of appeal.

22 **D. Service of the notice of appeal.** The appellant shall give notice of the filing of a
23 notice of appeal by serving a copy on the Court of Appeals and trial counsel of record for each

1 party other than the appellant. If a party is not represented by counsel, service shall be made by
2 mailing a copy of the notice of appeal to the party's last known address.

3 **E. Post-trial or post-judgment motions extending the time for appeal.**

4 (1) If a party timely files a motion that has the potential to affect the finality of
5 the underlying judgment or sentence, the full time prescribed in this rule for the filing of the notice
6 of appeal shall commence to run and be computed from the filing of an order expressly disposing
7 of the last such remaining motion. Those motions may include, but are not necessarily limited to,
8 the following motions filed within thirty (30) days after the judgment or order appealed from is
9 filed in the metropolitan court clerk's office:

10 (a) a motion for new trial filed under Rule 7-611 NMRA; or

11 (b) a motion for modification of a sentence filed under Rule 7-801
12 NMRA.

13 (2) If a party timely files a motion listed in Subparagraph (1) of this paragraph
14 and, before the motion is expressly disposed of by written order filed with the metropolitan court
15 clerk's office, the party files in the metropolitan court a notice stating that the motion is withdrawn,
16 the time for filing a notice of appeal shall be determined from the date the notice of withdrawal is
17 filed in the metropolitan court, unless another motion listed in Subparagraph (1) remains pending.

18 (3) A timely notice of appeal filed before the express disposition by order, or
19 the withdrawal of any timely filed motion listed in Subparagraph (1) of this paragraph, whether
20 the notice is filed before or after the motion is filed, becomes effective on the day on which the
21 time for filing a notice of appeal commences to run. Until that time, the notice does not divest the
22 metropolitan court of jurisdiction to dispose of the motion. A notice of appeal that becomes
23 effective under this subparagraph brings up for review any disposition by order of any timely filed

1 motion listed in Subparagraph (1) of this paragraph, without the necessity of attaching to the notice
2 of appeal a copy of any order disposing of the motion.

3 **F. Motion for extension of time.**

4 (1) A party seeking an extension of time to file a notice of appeal shall file a
5 motion in the metropolitan court before, or no later than thirty (30) days after, the expiration of the
6 time otherwise prescribed by this rule for filing the notice of appeal. The motion for extension of
7 time shall be served on all parties. The metropolitan court has jurisdiction to rule on the motion
8 regardless of whether a notice of appeal has been filed.

9 (2) If the motion is filed before the expiration of the time otherwise prescribed
10 by this rule for filing the notice of appeal, the motion may be granted on a showing of good cause.

11 (3) If the motion is filed within thirty (30) days after the expiration of the time
12 otherwise prescribed by this rule for filing the notice of appeal, the motion may be granted on a
13 showing of excusable neglect or circumstances beyond the control of the appellant.

14 (4) A motion filed more than thirty (30) days after the expiration of the time
15 otherwise prescribed by this rule for filing the notice of appeal shall not be granted.

16 (5) An extension of time granted under this paragraph shall not exceed thirty
17 (30) days after the date that the notice of appeal would have been due if the extension had not been
18 granted. A party that has filed a motion for extension of time must file a notice of appeal within
19 thirty (30) days after the expiration of the time otherwise prescribed by this rule for filing the notice
20 of appeal, even if the motion for extension of time remains pending. The metropolitan court may
21 grant the motion for extension of time retroactively.

22 **G. Grace period when notice is sent by mail or commercial courier.** A notice of
23 appeal that is sent by mail or commercial courier service to the metropolitan court shall be deemed

1 to be timely filed on the day it is received if the notice of appeal contains a certificate of service,
2 which, in addition to the information otherwise required by Rule 12-307(E) NMRA, explicitly
3 states that the notice of appeal was sent to the metropolitan court by mail or commercial courier
4 service and was postmarked by the United States Postal Service or date-stamped by the
5 commercial courier service at least one (1) day before the due date for the notice of appeal
6 otherwise prescribed by this rule. The metropolitan court clerk's office shall file-stamp a notice of
7 appeal with the date on which it is actually received regardless of any postmark date set forth in
8 the certificate of service.

9 H. **Record on appeal.**

10 (1) **Composition.** The papers and pleadings filed in the metropolitan court (the
11 court file), or a copy thereof shall constitute the record proper. The record proper shall be prepared
12 in the manner provided by Rule 22-301 NMRA.

13 (2) **Transmission.** On receipt of a copy of the docketing statement, the
14 metropolitan court clerk shall number consecutively the pages of the record proper and send it to
15 the Court of Appeals so that it will be filed in the Court of Appeals no later than fourteen (14) days
16 from the date the docketing statement is received by the metropolitan court. The first page, after
17 the title page, of the record proper shall consist of a copy of the metropolitan court clerk's docket
18 sheet with references to the page of the record proper for each entry. The metropolitan court clerk
19 shall send a copy of this docket sheet to all counsel of record.

20 (3) **Correction or modification of the record proper.** If anything material to
21 either party is omitted from the record proper by error or accident, the parties by stipulation, or the
22 metropolitan court or the Court of Appeals, on motion or on its own initiative, may direct that the

1 omission be corrected and a supplemental record proper sent to the Court of Appeals. The Court
2 of Appeals shall notify the parties when it has ordered supplemental material on its own accord.

3 **I. Docketing the appeal.**

4 (1) ***Attorney or party responsible.*** Unless otherwise ordered by the Court of
5 Appeals, trial counsel, or another attorney in the same office as trial counsel that is designated to
6 handle on-record appeals, or the party, if not represented by an attorney, shall be responsible for
7 preparing and filing a docketing statement in the Court of Appeals.

8 (2) ***When filed.*** Within thirty (30) days after filing the notice of appeal in the
9 metropolitan court, the appellant shall file a docketing statement in the Court of Appeals. But if
10 the notice of appeal was filed before the express written disposition by order or the withdrawal of
11 any timely filed post-trial or post-judgment motion listed in Paragraph E of this rule, then the
12 docketing statement shall be filed within thirty (30) days after the notice of appeal becomes
13 effective under Paragraph E.

14 (3) ***Service.*** The appellant shall serve a copy of the docketing statement on the
15 metropolitan court clerk and on those persons who are required to be served with a notice of appeal
16 under Paragraph D.

17 (4) ***Docketing statement in the Court of Appeals; contents.*** A docketing
18 statement must satisfy all of the requirements contained in Rule 12-208(D) NMRA. For docketing
19 statements filed in on-record appeals from the metropolitan court, the docketing statement must
20 also contain a specific reference to the audio recording for each factual assertion made in the
21 docketing statement. A “specific reference” requires a citation to the counter number or time
22 reference of the audio recording that establishes a basis for the factual assertion made in the
23 docketing statement. Failure to provide the information required by Rule 12-208(D) NMRA or

1 this subparagraph, including the requirement of specific references to the audio recording, may
2 result in sanctions up to and including dismissal of the appeal in accordance with Rule 12-312
3 NMRA.

4 **J. Conditions of release.**

5 (1) ***Appearance bond; appeal bond.*** The appearance bond set to ensure the
6 defendant's appearance for trial shall be released. The metropolitan court may set an appeal bond
7 to ensure the defendant's appearance in the Court of Appeals and may set any conditions of release
8 as are necessary to ensure the appearance of the defendant or the orderly administration of justice.
9 The metropolitan court may use the criteria listed in Rule 7- 401(C) NMRA and may also consider
10 the defendant's conviction and the length of the sentence imposed. The amount of the appeal bond
11 and the conditions of release shall be included in the judgment and sentence. Nothing in this rule
12 shall be construed to prevent the court from releasing a person not released before or during trial.

13 (2) ***Review of terms of release.*** If the metropolitan court has refused release
14 pending appeal or has imposed conditions of release that the defendant cannot meet, the defendant
15 may file a motion to review conditions of release with the clerk of the Court of Appeals under Rule
16 12-205 NMRA at any time after the filing of the notice of appeal. A copy of the motion to review
17 conditions of release that has been endorsed by the clerk of the Court of Appeals shall be filed
18 with the metropolitan court. If the Court of Appeals releases the defendant on appeal, a copy of
19 the order of release shall be filed in the metropolitan court.

20 (3) ***Stay of execution of sentence.*** Execution of any sentence, fine, fee, or
21 probation shall be stayed pending the results of the appeal to the Court of Appeals. An abstract of
22 record of the defendant's conviction shall not be prepared and sent in accordance with Section 66-
23 8-135 NMSA 1978 until the later of the following dates:

1 (a) expiration of the deadline for filing a notice of appeal under this
2 rule if the defendant does not file a notice of appeal; or

3 (b) ten (10) days after issuance of mandate by the Court of Appeals.

4 K. **Appellate Procedure.** All further process on appeal not articulated in this rule will
5 occur in accordance with the procedure articulated in Rule 12-609 NMRA and all applicable Rules
6 of Appellate Procedure.

7 [Adopted by Supreme Court Order No. S-1-RCR-2025-00175, effective for all cases filed on or
8 after December 31, 2025.]

9 **Committee commentary.** — Only a final judgment or final order of the metropolitan court may
10 be appealed. There is no right to an interlocutory appeal from the metropolitan court.

11 [Adopted by Supreme Court Order No. S-1-RCR-2025-00175.]