

1 **8-401. Pretrial release.**

2 A. **Hearing.**

3 (1) **Time.** The court shall conduct a hearing under this rule and issue an order
4 setting conditions of release as soon as practicable, but in no event later than

5 (a) if the defendant remains in custody, three (3) days after the date of
6 arrest if the defendant is being held in the local detention center, or five (5) days after the date of
7 arrest if the defendant is not being held in the local detention center;

8 (b) arraignment, if the defendant is not in custody; or

9 (c) if the defendant remains in custody pending a hearing under Rule 8-
10 403(D) NMRA, then within three (3) days after a temporary detention order is placed or the date
11 of the [~~initial~~] hearing conducted under Rule 8-403 NMRA if the defendant is being held in the
12 local detention center, or five (5) days after the date of the [~~initial~~] hearing conducted under Rule 8-
13 403 NMRA if the defendant is not being held in the local detention center.

14 (2) **Right to counsel.** If the defendant does not have counsel at the initial release
15 conditions hearing and is not ordered released at the hearing, the matter shall be continued for no
16 longer than three (3) additional days for a further hearing to review conditions of release, at which
17 the defendant shall have the right to assistance of retained or appointed counsel.

18 (3) **Local detention center; defined.** A “local detention center” is one that is
19 commonly used by the municipal court in the normal course of business and not necessarily within
20 the territorial jurisdiction of the court.

21 B. **Right to pretrial release; recognizance or unsecured appearance bond.** Any
22 defendant shall be ordered released pending trial on the defendant’s personal recognizance or on
23 the execution of an unsecured appearance bond in an amount set by the court. The court may

1 impose non-monetary conditions of release under Paragraph D of this rule, but the court shall
2 impose the least restrictive condition or combination of conditions that will reasonably ensure the
3 appearance of the defendant as required and the safety of any other person or the community. The
4 court may order execution of a secured appearance bond only if the court makes written findings
5 of particularized reasons why the release will not reasonably ensure the appearance of the
6 defendant as required under Paragraphs E and F of this rule.

7 **C. Factors to be considered in determining conditions of release.** In determining
8 the least restrictive conditions of release that will reasonably ensure the appearance of the
9 defendant as required and the safety of any other person and the community, the court shall
10 consider any available results of a pretrial risk assessment instrument approved by the Supreme
11 Court for use in the jurisdiction and the financial resources of the defendant. In addition, the court
12 may take into account the available information about

13 (1) the nature and circumstances of the offense charged, including whether the
14 offense is a crime of violence or involves alcohol or drugs;

15 (2) the weight of the evidence against the defendant;

16 (3) the history and characteristics of the defendant, including

17 (a) the defendant's character, physical and mental condition, family
18 ties, employment, past and present residences, length of residence in the community, community
19 ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record about
20 appearance at court proceedings; and

21 (b) whether, at the time of the current offense or arrest, the defendant
22 was on probation, on parole, or on other release pending trial, sentencing, or appeal for any offense
23 under federal, state, or local law;

1 (4) the nature and seriousness of the danger to any person or the community
2 that would be posed by the defendant's release;

3 (5) any other facts tending to indicate the defendant may or may not be likely
4 to appear as required; and

5 (6) any other facts tending to indicate the defendant may or may not commit
6 new crimes if released.

7 D. **Non-monetary conditions of release.** In its order setting conditions of release, the
8 court shall impose a standard condition that the defendant not commit a federal, state, or local
9 crime during the period of release. The court may also impose the least restrictive particularized
10 condition, or combination of particularized conditions, that the court finds will reasonably ensure
11 the appearance of the defendant as required, the safety of any other person and the community,
12 and the orderly administration of justice, which may include the condition that the defendant

13 (1) remain in the custody of a designated person who agrees to assume
14 supervision and to report any violation of a release condition to the court, if the designated person
15 is able reasonably to assure the court that the defendant will appear as required and will not pose
16 a danger to the safety of any other person or the community;

17 (2) maintain employment, or, if unemployed, actively seek employment;

18 (3) maintain or commence an educational program;

19 (4) abide by specified restrictions on personal associations, place of abode, or
20 travel;

21 (5) avoid all contact with an alleged victim of the crime or with a potential
22 witness who may testify about the offense;

1 (6) report on a regular basis to a designated pretrial services agency or other
2 agency agreeing to supervise the defendant;

3 (7) comply with a specified curfew;

4 (8) refrain from possessing a firearm, destructive device, or other dangerous
5 weapon;

6 (9) refrain from any use of alcohol or any use of an illegal drug or other
7 controlled substance without a prescription by a licensed medical practitioner;

8 (10) refrain from any use of cannabis, cannabis products, or synthetic
9 cannabinoids without a certification from a licensed medical practitioner;

10 (11) submit to a drug test or an alcohol test on request of a person designated by
11 the court;

12 (12) return to custody for specified hours after release for employment,
13 schooling, or other limited purposes; and

14 (13) satisfy any other condition that is reasonably necessary to ensure the
15 appearance of the defendant as required and the safety of any other person and the community.

16 E. **Secured bond.** If the court makes written findings of the particularized reasons
17 why release on personal recognizance or unsecured appearance bond, in addition to any non-
18 monetary conditions of release, will not reasonably ensure the appearance of the defendant as
19 required, the court may require a secured bond for the defendant's release.

20 (1) ***Factors to be considered in setting secured bond.***

21 (a) In determining whether any secured bond is necessary, the court
22 may consider any facts tending to indicate that the particular defendant may or may not be likely
23 to appear as required.

1 (b) The court shall set secured bond at the lowest amount necessary to
2 reasonably ensure the defendant's appearance and with regard to the defendant's financial ability
3 to secure a bond.

4 (c) The court shall not set a secured bond that a defendant cannot afford
5 for the purpose of detaining a defendant who is otherwise eligible for pretrial release.

6 (d) Secured bond shall not be set by reference to a predetermined schedule of monetary
7 amounts fixed according to the nature of the charge.

8 (2) *Types of secured bond.* If a secured bond is determined necessary in a
9 particular case, the court shall impose the first of the following types of secured bond that will
10 reasonably ensure the appearance of the defendant.

11 (a) *Percentage bond.* The court may require a secured appearance bond
12 executed by the defendant in the full amount specified in the order setting conditions of release,
13 secured by a deposit in cash of ten percent (10%) of the amount specified. The deposit may be
14 returned as provided in Paragraph K of this rule.

15 (b) *Property bond.* The court may require the execution of a property
16 bond by the defendant or by unpaid sureties in the full amount specified in the order setting
17 conditions of release, secured by the pledging of real property in accordance with Rule 8-
18 401.1 NMRA.

19 (c) *Cash or surety bond.* The court may give the defendant the option
20 of either

21 (i) a secured appearance bond executed by the defendant in the
22 full amount specified in the order setting conditions of release, secured by a deposit in cash of one

1 hundred percent (100%) of the amount specified, which may be returned as provided in Paragraph
2 K of this rule, or
3 (ii) a surety bond executed by licensed sureties in accordance
4 with Rule 8-401.2 NMRA for one hundred percent (100%) of the full amount specified in the order
5 setting conditions of release.

6 **F. Order setting conditions of release; contents.**

7 (1) *Contents of order setting conditions of release.* The written order setting
8 conditions of release shall be provided to the defendant before release if the defendant is in custody
9 or within three (3) days of the conditions of release hearing if the defendant is not in custody, and

10 (a) include a written statement that sets forth all the conditions to which
11 the release is subject, in a manner sufficiently clear and specific to serve as a guide for the
12 defendant's conduct;

13 (b) advise the defendant of
14 (i) the penalties for violating a condition of release, including
15 the penalties for committing an offense while on pretrial release;

16 (ii) the consequences for violating a condition of release,
17 including the immediate issuance of a warrant for the defendant's arrest, revocation of pretrial
18 release, and forfeiture of bond; and

19 (iii) the consequences of intimidating a witness, victim, or
20 informant, or otherwise obstructing justice.

21 (2) *Written findings about secured bond.* The court shall file written findings
22 of the individualized facts justifying a secured bond as soon as possible, but no later than two (2)
23 days after the conclusion of the hearing.

1 G. **Review of conditions of release by the municipal court.**

2 (1) *Review.* If the municipal court requires a secured bond for the defendant's
3 release under Paragraph E of this rule or imposes non-monetary conditions of release under
4 Paragraph D of this rule, and the defendant remains in custody twenty-four (24) hours after the
5 issuance of the order setting conditions of release as a result of the defendant's inability to post the
6 secured bond or meet the conditions of release in the present case, the defendant shall be entitled
7 to a hearing to review the conditions of release.

8 (2) *Review hearing.* The municipal court shall hold a hearing in an expedited
9 manner, but in no event later than five (5) days after the conditions of release hearing. The
10 defendant shall have the right to assistance of retained or appointed counsel at the hearing. Unless
11 the order setting conditions of release is amended and the defendant is then released, the court shall
12 file a written order setting forth the reasons for declining to amend the order setting conditions of
13 release. The court shall consider the defendant's financial ability to secure a bond. No defendant
14 eligible for pretrial release under Article II, Section 13 of the New Mexico Constitution shall be
15 detained solely because of financial inability to post a secured bond unless the court determines
16 by clear and convincing evidence and makes findings of the reasons why the amount of secured
17 bond required by the court is reasonably necessary to ensure the appearance of the particular
18 defendant as required. The court shall file written findings of the individualized facts justifying
19 the secured bond as soon as possible, but no later than two (2) days after the conclusion of the
20 hearing.

21 (3) *Work or school release.* A defendant who is ordered released on a condition
22 that requires that the defendant return to custody after specified hours, shall, on motion of the
23 defendant or the court's own motion, be entitled to a hearing to review the conditions imposed.

1 Unless the requirement is removed and the defendant is released on another condition, the court
2 shall file a written order setting forth the reason for the continuation of the requirement. A hearing
3 to review conditions of release under this subparagraph shall be held by the municipal court within
4 five (5) days of the filing of the motion. The defendant shall have the right to assistance of retained
5 or appointed counsel at the hearing.

6 (4) ***Subsequent motion for review.*** The defendant may file subsequent motions
7 for review of the order setting conditions of release, but the court may rule on subsequent motions
8 with or without a hearing.

9 H. **Amendment of conditions.** The court may amend its order setting conditions of
10 release at any time. If the amendment of the order may result in the detention of the defendant or
11 in more restrictive conditions of release, the court shall not amend the order without a hearing. If
12 the court is considering revocation of the defendant's pretrial release or modification of the
13 defendant's conditions of release for violating a condition of release, the court shall follow the
14 procedures set forth in Rule 8-403 NMRA.

15 I. **Petition to district court.**

16 (1) ***Defendant must seek review by municipal court before filing petition in***
17 ***district court.*** The defendant may file a petition in the district court for review of the municipal
18 court's order setting conditions of release only after the municipal court has reviewed the
19 conditions of release and made a requisite ruling under Paragraph G of this rule. The defendant
20 shall attach to the district court petition a copy of the municipal court order after the review of the
21 conditions of release.

1 (2) ***Petition; requirements.*** A petition to the district court under this paragraph
2 shall include the specific facts that warrant review by the district court and may include a request
3 for a hearing. The petitioner shall promptly

4 (a) file a copy of the district court petition in the municipal court;

5 (b) serve a copy on the prosecutor; and

6 (c) provide a copy to the assigned district court judge.

7 (3) ***Municipal court’s jurisdiction pending determination of the petition.*** On
8 the filing of a petition under this paragraph, the municipal court’s jurisdiction to amend the
9 conditions of release shall be suspended pending determination of the petition by the district court.
10 The municipal court shall retain jurisdiction over all other aspects of the case, and the case shall
11 proceed in the municipal court while the district court petition is pending. The municipal court’s
12 order setting conditions of release shall remain in effect unless and until the district court issues
13 an order amending the conditions of release.

14 (4) ***District court review.*** The district court shall rule on the petition in an
15 expedited manner. Within three (3) days after the petition is filed, the district court shall take one
16 of the following actions:

17 (a) set a hearing no later than ten (10) days after the filing of the petition
18 and promptly send a copy of the notice to the municipal court;

19 (b) deny the petition summarily; or

20 (c) amend the order setting conditions of release without a hearing.

21 (5) ***District court order; transmission to municipal court.*** The district court
22 shall promptly send to the municipal court a copy of the district court order disposing of the
23 petition, and jurisdiction over the conditions of release shall revert to the municipal court.

1 J. **Expedited trial scheduling for defendant in custody.** The municipal court shall
2 provide expedited priority scheduling in a case in which the defendant is detained as a result of
3 inability to post a secured bond or meet the conditions of release. The court shall hold a status
4 review hearing in any case in which the defendant has been held for more than forty-five (45) days.
5 The purpose of the status review hearing is to conduct a meaningful review of the progress of the
6 case. If the court determines that insufficient progress has been made, then the court shall issue an
7 appropriate scheduling order.

8 K. **Return of cash deposit.** If a defendant has been released by executing a secured
9 appearance bond and depositing a cash deposit under Paragraph E of this rule, when the conditions
10 of the appearance bond have been performed and the defendant's case has been adjudicated by the
11 court, the clerk shall return the sum that has been deposited to the person who deposited the sum,
12 or that person's personal representatives or assigns.

13 L. **Release from custody by designee.** The presiding judge of the municipal court
14 may designate by written court order responsible persons to implement the pretrial release
15 procedures set forth in Rule 8-408 NMRA. A designee shall release a defendant from custody
16 before the defendant's first appearance before a judge if the defendant is eligible for pretrial release
17 under Rule 8-408 NMRA, but may contact a judge for special consideration based on exceptional
18 circumstances. No person shall be qualified to serve as a designee if the person or the person's
19 spouse is related within the second degree of blood or marriage to a paid surety who is licensed to
20 sell property or corporate bonds within this state.

21 M. **Evidence.** Information offered in connection with or stated in any proceeding held
22 or order entered under this rule need not conform to the New Mexico Rules of Evidence.

1 N. **Forms.** Instruments required by this rule, including any order setting conditions of
2 release, appearance bond, property bond, or surety bond, shall be substantially in the form
3 approved by the Supreme Court.

4 O. **Judicial discretion; disqualification.** Action by any court on any matter relating
5 to pretrial release shall not preclude the subsequent disqualification of a judge under the provisions
6 of the New Mexico Constitution or the Code of Judicial Conduct.

7 [As amended, effective August 1, 1987; October 1, 1987; September 1, 1990; December 1, 1990;
8 as amended by Supreme Court Order No. 07-8300-034, effective January 22, 2008; by Supreme
9 Court Order No. 08-8300-047, effective December 31, 2008; as amended by Supreme Court Order
10 No. 17-8300-005, effective for all cases pending or filed on or after July 1, 2017; as amended by
11 Supreme Court Order No. 22-8300-015, effective for all cases pending or filed on or after
12 December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2023-00021, effective
13 for all cases pending or filed on or after December 31, 2023; as amended by Supreme Court Order
14 No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024; as
15 provisionally amended by Supreme Court Order No. S-1-AO-2025-00013, effective for all cases
16 pending or filed on or after July 29, 2025; provisional amendments approved by Supreme Court
17 Order No. S-1-RCR-2025-00150, effective for all cases pending or filed on or after December 31,
18 2025.]

19 **Committee commentary.** — This rule provides “the mechanism through which a person
20 may effectuate the right to pretrial release afforded by Article II, Section 13 of the New Mexico
21 Constitution.” *State v. Brown*, 2014-NMSC-038, ¶ 37, 338 P.3d 1276. In 2016, Article II, Section
22 13 was amended (1) to permit a court of record to order the detention of a felony defendant pending
23 trial if the prosecutor proves by clear and convincing evidence that the defendant poses a danger

1 to the safety of any other person or the community and that no release condition or combination
2 of conditions will reasonably ensure the safety of any other person or the community, and (2) to
3 require the pretrial release of a defendant who is in custody solely because of financial inability to
4 post a secured bond. This rule was derived from the federal statute governing the release or
5 detention of a defendant pending trial. *See* 18 U.S.C. § 3142. This rule was amended in 2017 to
6 implement the 2016 amendment to Article II, Section 13 and the Supreme Court’s holding
7 in *Brown*, 2014-NMSC-038. Corresponding rules are located in the Rules of Criminal Procedure
8 for the District Courts, *see* Rule 5-401 NMRA, the Rules of Criminal Procedure for the Magistrate
9 Courts, *see* Rule 6-401 NMRA, and the Rules of Criminal Procedure for the Metropolitan
10 Courts, *see* Rule 7-401 NMRA.

11 Time periods specified in this rule are computed in accordance with Rule 8-104 NMRA.

12 Just as assistance of counsel is required at a detention hearing under Rule 5-409 NMRA
13 that may result in a denial of pretrial release based on dangerousness, Subparagraphs (A)(2),
14 (G)(2), and (G)(3) of this rule provide that assistance of counsel is required in a proceeding that
15 may result in denial of pretrial release based on reasons that do not involve dangerousness, such
16 as a simple inability to meet a financial condition.

17 As set forth in Paragraph B, a defendant is entitled to release on personal recognizance or
18 unsecured bond unless the court determines that any release, in addition to any non-monetary
19 conditions of release under Paragraph D, will not reasonably ensure the appearance of the
20 defendant and the safety of any other person or the community.

21 Paragraph C lists the factors the court should consider when determining conditions of
22 release. In all cases, the court is required to consider any available results of a pretrial risk

1 assessment instrument approved by the Supreme Court for use in the jurisdiction and the financial
2 resources of the defendant.

3 Paragraph D lists various non-monetary conditions of release. The court must impose the
4 least restrictive condition, or combination of conditions, that will reasonably ensure the appearance
5 of the defendant as required and the safety of any other person and the community. *See*
6 *Brown*, 2014-NMSC-038, ¶¶ 1, 37, 39. If the defendant has previously been released on standard
7 conditions before a court appearance, the judge should review the conditions at the defendant's
8 first appearance to determine whether any particularized conditions should be imposed under the
9 circumstances of the case. Paragraph D also permits the court to impose non-monetary conditions
10 of release to ensure the orderly administration of justice. This provision was derived from the
11 American Bar Association, *ABA Standards for Criminal Justice: Pretrial Release*, Standard 10-
12 5.2 (3d ed. 2007). Some conditions of release may have a cost associated with the condition. The
13 court should make a determination about whether the defendant can afford to pay all or a part of
14 the cost, or whether the court has the authority to waive the cost, because detaining a defendant
15 because of inability to pay the cost associated with a condition of release is comparable to detaining
16 a defendant because of financial inability to post a secured bond.

17 As set forth in Paragraph E, the only purpose for which the court may impose a secured
18 bond is to ensure that the defendant will appear for trial and other pretrial proceedings for which
19 the defendant must be present. *See State v. Ericksons*, 1987-NMSC-108, ¶ 6, 106 N.M. 567, 746
20 P.2d 1099 (“[T]he purpose of bail is to secure the defendant’s attendance to submit to the
21 punishment to be imposed by the court.”); *see also* NMSA 1978, § 31-3-2(B)(2) (1993)
22 (authorizing the forfeiture of bond on the defendant’s failure to appear).

1 The 2017 amendments to this rule clarify that the amount of secured bond must not be
2 based on a bond schedule, i.e., a predetermined schedule of monetary amounts fixed according to
3 the nature of the charge. Instead, the court must consider the individual defendant’s financial
4 resources and must set secured bond at the lowest amount that will reasonably ensure the
5 defendant’s appearance in court after the defendant is released.

6 Secured bond cannot be used for the purpose of detaining a defendant who may pose a
7 danger to the safety of any other person or the community. *See Brown*, 2014-NMSC-038, ¶ 53
8 (“Neither the New Mexico Constitution nor our rules of criminal procedure permit a judge to set
9 high bail for the purpose of preventing a defendant’s pretrial release.”); *see also Stack v. Boyle*,
10 342 U.S. 1, 5 (1951) (stating that secured bond set higher than the amount reasonably calculated
11 to ensure the defendant’s appearance in court “is ‘excessive’ under the Eighth Amendment”).

12 The court should consider the authorized types of secured bonds in the order of priority set
13 forth in Paragraph E. The court must first consider requiring an appearance bond secured by a cash
14 deposit of ten percent (10%). No other percentage is permitted under the rule. If a cash deposit of
15 ten percent (10%) is inadequate, the court then must consider a property bond involving property
16 that belongs to the defendant or other unpaid surety. If neither of these options is sufficient to
17 reasonably ensure the defendant’s appearance, the court may require a cash or surety bond for the
18 defendant’s release. If the court requires a cash or surety bond, the defendant has the option either
19 to execute an appearance bond and deposit one hundred percent (100%) of the amount of the bond
20 with the court or to purchase a bond from a paid surety. Under Subparagraph (E)(2)(c), the
21 defendant alone has the choice to post the bond by a one hundred percent (100%) cash deposit or
22 a surety. The court does not have the option to set a cash-only bond or a surety-only bond; it must

1 give the defendant the choice of either. A paid surety may execute a surety bond or a real or
2 personal property bond only if the conditions of Rule 8-401.2 NMRA are met.

3 Paragraph F governs the contents of an order setting conditions of release. *See* Form 9-
4 303 NMRA (order setting conditions of release). Although pretrial release hearings are not
5 required to be a matter of record in the municipal court, Paragraph F requires the court to make
6 written findings justifying the imposition of a secured bond. Judges are encouraged to enter their
7 written findings on the order setting conditions of release at the conclusion of the hearing. If more
8 detailed findings are necessary, the judge should make any supplemental findings in a separate
9 document within two (2) days of the conclusion of the hearing.

10 Paragraph G sets forth the procedure for review of the defendant’s conditions of release in
11 the municipal court. Paragraph I sets forth the procedure for the defendant to petition the district
12 court for review of the conditions of release set by the municipal court. Article II, Section 13 of
13 the New Mexico Constitution requires the court to rule on a motion or petition for pretrial release
14 “in an expedited manner” and to release a defendant who is being held solely because of financial
15 inability to post a secured bond. A defendant who wishes to present financial information to a court
16 to support a motion or a petition for pretrial release may present Form 9-301A NMRA (pretrial
17 release financial affidavit) to the court. The defendant shall be entitled to appear and participate
18 personally with counsel before the judge conducting any hearing to review the conditions of
19 release, rather than by any means of remote electronic conferencing.

20 Paragraph J requires the municipal court to prioritize the scheduling of trial and other
21 proceedings for cases in which the defendant is held in custody because of inability to post bond
22 or meet the conditions of release. *See generally United States v. Salerno*, 481 U.S. 739, 747 (1987)
23 (concluding that the detention provisions in the Bail Reform Act, 18 U.S.C. § 3142, did not violate

1 due process, in part because of “the stringent time limitations of the Speedy Trial Act,” 18 U.S.C.
2 § 3161); Am. Bar Ass’n, *ABA Standards for Criminal Justice: Pretrial Release*, Standard 10-5.11
3 (3d ed. 2007) (“Every jurisdiction should establish, by statute or court rule, accelerated time
4 limitations within which detained defendants should be tried consistent with the sound
5 administration of justice.”). This rule does not preclude earlier or more regular status review
6 hearings. The purpose of the hearing is to determine how best to expedite a trial in the case. A
7 meaningful review of the progress of the case includes assessment of the parties’ compliance with
8 applicable deadlines, satisfaction of discovery obligations, and witness availability, among other
9 matters. If the court determines that the parties have made insufficient progress on these measures,
10 then it shall issue an appropriate scheduling order.

11 Under NMSA 1978, Section 31-3-1 (1972), the court may appoint a designee to carry out
12 the provisions of this rule. As set forth in Paragraph L, a designee must be designated by the
13 presiding municipal court judge in a written court order. A person may not be appointed as a
14 designee if that person is related within the second degree of blood or marriage to a paid surety
15 licensed in this state to execute bail bonds. A jailer may be appointed as a designee. Paragraph L
16 and Rule 8-408 NMRA govern the limited circumstances under which a designee shall release an
17 arrested defendant from custody before that defendant’s first appearance before a judge.

18 Paragraph M of this rule dovetails with Rule 11-1101(D)(3)(e) NMRA. Both provide that
19 the Rules of Evidence do not apply to proceedings in the municipal court with respect to matters
20 of pretrial release. As with courts in other types of proceedings in which the Rules of Evidence do
21 not apply, a court presiding over a pretrial release hearing is responsible “for assessing the
22 reliability and accuracy” of the information presented. *See United States v. Martir*, 782 F.2d 1141,
23 1145 (2d Cir. 1986) (explaining that in a pretrial detention hearing the judge “retains the

1 responsibility for assessing the reliability and accuracy of the government’s information, whether
2 presented by proffer or by direct proof”); *see also United States v. Marshall*, 519 F. Supp. 751,
3 754 (E.D. Wis. 1981) (“So long as the information which the sentencing judge considers has
4 sufficient indicia of reliability to support its probable accuracy, the information may properly be
5 taken into account in passing sentence.”), *aff’d*, 719 F.2d 887 (7th Cir. 1983); *State v.*
6 *Guthrie*, 2011-NMSC-014, ¶¶ 36-39, 43, 150 N.M. 84, 257 P.3d 904 (explaining that in a
7 probation revocation hearing, the court should focus on the reliability of the evidence).

8 As set forth in Rule 8-106 NMRA, no right to peremptory disqualification exists in the
9 municipal court, but a judge may file a recusal either on the court’s own motion or motion of a
10 party. *See* N.M. Const. art. VI, § 18; Rule 21-211 NMRA.

11 [Adopted by Supreme Court Order No. 17-8300-005, effective for all cases pending or filed on or
12 after July 1, 2017; as amended by Supreme Court No. 22-8300-015, effective for all cases pending
13 or filed on or after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2024-
14 00068 effective for all cases pending or filed on or after May 8, 2024.]