



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

S-1-SC-41150

D-202-CR-2018-01041

JAMES BENJAMIN CARTER,

Defendant-Appellee,

DEFENDANT-APPELLEE'S ANSWER BRIEF

On Certification from the Court of Appeals, No. A-1-CA-41915
Appeal from the Second Judicial District Court
Bernalillo County, New Mexico
Cindy Leos, District Judge

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STATEMENT REGARDING RECORD CITATIONS

The record proper is cited by page number, e.g., [RP (pg)].

Some district court proceedings were audio recorded with “For the Record” software and were reviewed on a CD using “The Record Player;” they are cited by proceeding date and FTR timestamp, e.g., [date, timestamp].

Citations to the State’s brief-in-chief are by page numbers [BIC (pg.)].

STATEMENT OF COMPLIANCE

Pursuant to Rule 12-318(G) NMRA, I certify that the body of this answer brief, written in 14-point Time New Roman contains **10,243** words, despite the brief exceeding the page limits. The answer brief therefore complies with Rule 12-318(F)(3). I relied on the word count provided by Microsoft Word for Office 365.

In addition, the use of “cleaned up” after citations indicates that internal quotation marks, alterations, and citations have been omitted from quotations. *See* Jack Metzler, *Cleaning Up Quotations*, 18 J. APP. PRAC. & PROCESS 143 (2017).

NATURE OF THE CASE

James Carter was found incompetent to stand trial and not likely to attain competency in the foreseeable future. He was committed for the maximum period authorized under the law. When that statutory commitment period expired, the district court concluded that its jurisdiction over the criminal cause had also expired and declined to conduct a competency hearing scheduled after the statutory endpoint.

The State is asking this Court to permit continued criminal jurisdiction beyond the Legislature’s express temporal limit. This is a violation of Mr. Carter’s right to

due process under the law. It also violates the separation of powers because it allows courts to continue exercising criminal jurisdiction after the statutory maximum commitment period has expired. This would nullify the Legislature's carefully drawn limits and recreate the very indefinite restraint forbidden by federal law.

Because the Legislature limited competency review to the duration of the statutory commitment period, and because that period expired without restoration to competency, the district court correctly concluded that its criminal jurisdiction had ended. This court should affirm the district court's decision.

BACKGROUND¹

Mr. Carter was indicted on eleven criminal charges, including three counts of first-degree kidnapping, two counts of aggravated battery (great bodily harm), and two counts of criminal sexual contact of a minor. He was arraigned on March 4, 2018. **[RP 1-4]**

During pretrial proceedings, and after a court-ordered evaluation, Mr. Carter was found incompetent. **[RP 31-33]** On August 15, 2018, the parties stipulated and the court ordered that he be treated to competency. **[RP 39-41]**

On March 11, 2019, after spending about seven months at the New Mexico Behavioral Health Institute (NMBHI), the court found that Mr. Carter was not likely to attain competency within a reasonable amount of time and that he remained

¹ Additional facts are developed in the Argument section as needed.

dangerous. The court found clear and convincing evidence supporting certain enumerated charges, and determined that those charges satisfied the criteria for extended commitment under Section 31-9-1.5 of the New Mexico Mental Illness and Competency Act. The court ordered Mr. Carter detained at NMBHI for six years – the maximum sentence he would have faced if convicted of two counts of CSCM in the fourth degree and one count of aggravated battery (great bodily harm). The court identified March 15, 2024, as his release date. **[RP 46-48]**

Approximately one year later, NMBHI notified the parties that Mr. Carter had been restored to competency. **[4/15/21, 8:32:08-36:27]** Defense experts disagreed and a hearing was held on the matter on June 12, 2023 and on February 21, 2024. **[6/12/23, 10:06:10-11:24:05] [2/21/24, 9:26:30-11:49:32] [RP 86-91; 93-118; 145]**

At the close of the February 21 hearing, only fifteen minutes remained for the defense to present its case. The court requested dates to complete the competency proceedings. **[RP 91-92] [2/21/24, 11:46:11-49:32]** The State did not request that the hearing be set before Mr. Carter's March 15, 2024 release date. The hearing was later set for March 29, 2024, fourteen days after Mr. Carter's mandated release date from NMBHI. **[RP 131, 47]**

After Mr. Carter's release, but before the hearing, defense counsel moved to dismiss the case for lack of jurisdiction. **[RP 132-142]** The State filed no written response. The court reviewed the motion and after argument concluded that

jurisdiction expired upon Mr. Carter’s release from his maximum period of commitment because, “[a]s of the date of expiration of Mr. Carter’s period of commitment, ... [there was] no Court finding that Mr. Carter had been treated to Competency”. **[RP 144-146] [3/29/24, 9:13:53-53:45]**

The court encouraged the State to appeal, observing that the order was not a dismissal because NMSA 1978, Section 31-9-1.5(D) is unclear regarding the proper criminal procedure after a defendant completes the statutory maximum term of detention at NMBHI. **[3/29/24, 9:49:22-52:40]** The State appealed. **[RP 147-148]**

Following appellate briefings, the Court of Appeals asked this Court to accept certification of the case. The Court listed four issues in its application:

1. Whether and to what extent the district court has jurisdiction over the defendant upon the expiration of the period of commitment;
2. Whether Section 31-9-1.5(D)(4)(b) (1999), bars the district court from conducting or completing a competency hearing after the expiration of the period of commitment;
3. Whether Section 31-9-1.5(D) (1999) requires the district court to dismiss all of the criminal charges upon the expiration of period of commitment – including charges for offenses that were either not included within the scope of, or that the district court has not considered under, Section 31-9-1.5 (1999);
4. If dismissal is required, in whole or in part, whether the dismissal is with or without prejudice – a question not addressed by either party. Further, if the dismissal is without prejudice, additional questions arise. For example, there is a question as to the effect of a commitment period on the relevant statute of limitations, a matter that has the potential to impact the State’s ability to refile charges. *See State v. Padilla*, __-NMSC-__, ¶ 2, P.3d __ (S-1-SC-39897, July 15, 2025) (concluding that “a timely filed criminal information dismissed without prejudice” does not toll the statute of limitations such that the State

may refile the charges after the limitations period has passed). As well, if the State subsequently re-files the charge(s) and obtains a conviction, there is a question as to whether or how the time spent in criminal commitment should be counted toward the ultimate sentence imposed. *See State v. Baca*, 2019-NMSC-014, ¶ 16 n.3, (citing *State v. La Badie*, 1975-NMCA-032, 87 N.M. 391, for the proposition that the State must credit a defendant for presentence confinement while committed); *Rotherham*, 1996-NMSC-048, ¶ 53 (stating that “because the state seeks to treat an incompetent [defendant] and to protect the community from danger, detention serves a regulatory rather than a punitive function”).

[Order of Certification to the New Mexico Supreme Court, *State v. Carter*, A-1-CA-41915 (N.M. Ct. App. Oct. 20, 2025)]

This Court granted certification and added the question:

1. Whether the stipulation supporting Defendant’s criminal commitment precludes the State from pursuing some or all of the charges against him after his release, including charges that would have supported a longer commitment period if proven at the time of his commitment.

[Order Accepting Certification and Ordering Briefing, *State v. Carter*, S-1-SC-41150 (N.M. Ct. App. Dec. 11, 2025)]

ARGUMENT

The State is appealing an issue of statutory construction and legislative intent related to the proper interpretation of NMSA 1978, Section 31-9-1.5(D)(4)(b).² *State v. Baca*, 2005-NMCA-001, ¶ 9, 136 N.M. 667. This Court reviews questions of statutory interpretation de novo. *State v. Rivera*, 2004-NMSC-001, ¶ 9, 134 N.M. 768. The Court’s task in construing a statute is to determine legislative intent. *Baca*,

² The statute has since been amended; this brief refers to the 1999 version in effect at the time the district court entered the order in this case.

2005-NMCA-001, ¶ 9. The search for legislative intent begins by looking “first to the words chosen by the Legislature and the plain meaning of the Legislature’s language.” *State v. Davis*, 2003-NMSC-022, ¶ 6, 134 N.M. 172. If the plain language of the statute is unclear, courts examine the context, history, purpose, structure and function of the statute within a comprehensive legislative system. *Id.*; *Maes v. Audobon Indem. Ins. Grp.*, 2007-NMSC-009, ¶ 11, 142 N.M. 235; *Baca*, 2005-NMCA-001, ¶ 9; *accord Rivera*, 2004-NMSC-001, ¶ 13. “We may depart from the plain language only under rare and exceptional circumstances.” *State v. Padilla*, 2008-NMSC-006, ¶ 41, 143 N.M. 310. When looking at the statute as a whole, courts take care to avoid interpretations that lead to absurd or unconstitutional results. *State v. Strauch*, 2015-NMSC-009, ¶ 13 (cleaned up) (statutory interpretations must not lead to absurd, unjust, unreasonable or contradictory results); *Schuster v. N.M. Dep’t of Taxation & Revenue, Motor Vehicle Div.*, 2012-NMSC-025, ¶ 18, (cleaned up) (if possible, statutes should be construed to avoid constitutional questions). Those principles support the conclusion that jurisdiction to conduct a competency proceeding ended when the commitment period expired.

This case concerns the constitutional boundary of criminal jurisdiction over an incompetent defendant, not merely the interpretation of a statutory deadline. The question is structural: whether a court may continue exercising criminal jurisdiction

after the Legislature's expressly authorized maximum period of commitment has expired.

I. The plain language of the statute makes it clear that the legislature intended for the court's jurisdiction to end upon expiration of the maximum period of commitment.

When the Legislature creates a statutory framework governing criminal jurisdiction over an incompetent defendant and expressly limits that authority to a defined commitment period, the expiration of that period terminates the court's jurisdiction to continue criminal competency proceedings. NMSA 1978, Section 31-9-1.5(D)(4)(b) (1999) does not permit courts to conduct or complete competency review after the expiration of the statutory commitment period. If competency is not restored by the expiration date, the criminal case must terminate. Any further restraint must proceed through the New Mexico Legislature enacted the Mental Illness and Competency Act's alternative mechanisms, such as civil commitment or arguably a new prosecution if competency is later restored.

This rule follows directly from the statutory text authorizing competency review only "until the expiration of the period of commitment," § 31-9-1.5(D)(4)(b), and from the constitutional principle that criminal jurisdiction exists only to the extent conferred by the Legislature. *See* N.M. Const. art. VI, § 13; *State v. Ordunez*, 2012-NMSC-024, ¶ 9.

Due process under the Fifth and Fourteenth Amendments, together with the statutory framework of Sections 31-9-1 to 31-9-1.5 (1999), and the plain language of 31-9-1.5 (D)(4)(b) (1999) confirms that criminal jurisdiction ends when the

maximum period of commitment authorized by Section 31-9-1.5 expires. U.S. Const. Amend. V, amend XIV; NMSA 1978, §§ 31-9-1 to 31-9-1.5 (1999). At that point, the district court is barred from conducting or completing competency proceedings under the criminal cause and may proceed only through the civil-commitment pathway the New Mexico Legislature enacted in the Mental Illness and Competency Act.

“In interpreting statutes, we seek to give effect to the Legislature’s intent, and in determining intent we look to the language used and consider the statute’s history and background.” *Key v. Chrysler Motors Corp.*, 1996-NMSC-038, ¶ 13, 121 N.M. 764 (cleaned up). Under the plain meaning rule, “[w]ords in the statute should be given their ‘ordinary meaning unless the legislature indicates a different intent.’” *State v. Javier M.*, 2001-NMSC-030, ¶ 28, 131 N.M. 1 (cleaned up). Where the plain language is clear, further need for construction may be unnecessary. *Davis*, 2003-NMSC-022, ¶ 6 (“Under the plain meaning rule statutes are to be given effect as written without room for construction....”); *accord State v. Trujillo*, 2009-NMSC-012, ¶ 11, 146 N.M. 14.

“Both federal and New Mexico constitutional law have ‘long recognized that it is a violation of due process to prosecute a defendant who is incompetent to stand trial.’” *State v. Gutierrez*, 2015-NMCA-082, ¶ 9 (quoting *Rotherham*, 1996-NMSC-048, ¶ 13). Further, The New Mexico Legislature enacted the Mental Illness and

Competency Act (the Act) to comply with federal constitutional requirements announced in *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), and to ensure that criminal competency does not become a vehicle for indefinite restraint. *Rotherham*, 1996-NMSC-048, ¶¶ 14-15. The Act reflects a calibrated balance between public safety and the due process rights of incompetent defendants. *See Rotherham*, 1996-NMSC-048, ¶¶ 15 (discussing a defendant's rights to only be tried when competent), 23 (discussing state interest in protecting the public from dangerous individuals); *Gutierrez*, 2015-NMCA-082, ¶¶ 9, 14. Under that framework, Section 31-9-1.5 governs defendants who (1) are incompetent, (2) are not likely to attain competency with a reasonable time, and (3) are found dangerous after the courts finds clear and convincing evidence of specified enumerated offenses under § 31-9-1.4(A), § 31-9-1.5(B) (1999).

Critically, Section 31-9-1.5(D)(4)(b) commands periodic review until the expiration of the period of commitment:

If the defendant continues to be incompetent to proceed in a criminal case and dangerous pursuant to Section 31-9-1.2 NMSA 1978, **the court shall review the defendant's competency and dangerousness every two years *until the expiration of the period of commitment*** equal to the maximum sentence to which the defendant would have been subject had he or she been convicted in a criminal proceeding; provided that if the treatment supervisor recommends that the defendant be committed pursuant to the Mental Health and Developmental Disabilities Code, the court may at any time proceed pursuant to Subsection C of Section 31-9-1.4 NMSA 1978.

NMSA 1978, § 31-9-1.5 (D)(4)(b) (1999) (emphasis added).

The phrase “until the expiration” supplies an endpoint, not a guideline. Once the commitment period ends, the statutory authorization for criminal-court competency review ends with it.

Here, the State sought to conduct a competency hearing on March 29, 2024, 14 days *after* Mr. Carter was done serving the maximum period of commitment allowed under the Act. **[RP 144-146] [3/29/24, 9:13:53-53:45]** The court did not err in granting the defendant’s motion to dismiss because it did not have jurisdiction to conduct the hearing. The court found that (1) on March 15, 2024, Mr. Carter’s maximum period of commitment expired , (2) as of March 11, 2019, the last competency hearing, Mr. Carter was still not found competent; (3) the determination of competency at the last hearing remained in effect, (4) the pending competency hearing did not impact the expiration of the court’s jurisdiction, and (5) the court no longer had jurisdiction over Mr. Carter in this matter. **[RP 144-146]**

The State asks this Court to disregard the Legislature’s express temporal limitation and to treat the statute as authorizing indefinite, post-expiration criminal jurisdiction. **[BIC 22-26]** That construction cannot be reconciled with the statutory text. Courts must give effect to limiting language and avoid reading it out of the statute. *State v. Farish*, 2021-NMSC-030, ¶ 11. Because competency review is authorized only “until expiration of the period of commitment,” according to the

plain language of the statute, the court lacked jurisdiction to conduct or complete competency proceedings after expiration, and its order should be affirmed.

A. Section 31-9-1.5 (E)(4)(b) is limiting and not merely instructional.

The State overanalyzes the plain meaning of this statute. It characterizes Section 31-9-1.5(D)(4) as merely instructional. **[BIC 9]** But in statutory interpretation, a statute that prescribes what a court must do at a particular procedural moment inherently defines what the court may not do once that moment passes. **[BIC 14]**

Courts do not possess free-floating authority outside procedures established by the Legislature. A court’s jurisdiction exists only to the extent conferred by statute or constitution. *State v. Chavarria*, 2009-NMSC-020, ¶ 11, 146 N.M. 251 (cleaned up) (“whether [the matter before the court] falls within the general scope of authority conferred upon such court by the constitution or statute”) And the court must interpret statutes to give meaning to all words used. *Farish*, 2021-NMSC-030, ¶ 11 (cleaned up) (“each word must be given meaning. This Court must interpret a statute so as to avoid rendering the Legislature's language superfluous”).

Here, if the district court retained unlimited authority after the commitment period expired, the Legislature’s directive that review can occur only “until the expiration of the period of commitment” would be rendered meaningless and serve no practical function. Statutes must be interpreted so that every provision has

meaning and effect, not in a manner that allows a court to bypass the statutory structure entirely. **[BIC 14, 22-26]**; *See Farish*, 2021-NMSC-030, ¶ 11 (cleaned up).

New Mexico precedent recognizes the same structural limit when the Legislature ties judicial authority to a defined period. In the probation context, once the probation term expires without revocation, the court loses authority over the defendant, and the criminal liability is deemed satisfied. *See* NMSA 1978, § 31-20-8 (1977); *State v. Lara*, 2000-NMCA-073, ¶¶ 10-12, 129 N.M. 391 (Once the probationary period expires, the court is divested of jurisdiction over the defendant, even where the State filed a motion to revoke prior to the expiration of the term); *State v. Ordunez*, 2012-NMSC-024, ¶¶ 9, 21-22 (the court has no jurisdiction to hear a pending motion to revoke “once the probationary period has expired”). A comparison of § 31-20-8 and § 31-9-1.5(D)(4)(b) reveals that both statutes reflect the same Legislative concern: limiting the duration of criminal court authority to defined period tied to the maximum restraint on liberty the Legislature authorized.

Although these statutes operate in different procedural contexts – probation versus incompetency commitment – their structural function is similar: they impose a temporal boundary on the court’s jurisdiction over a defendant in a criminal case. Thus, statutory commands about what must occur are not merely procedural suggestions; they are the mechanism through which the Legislature defines the scope of judicial power. Therefore, even if the court started a review of competency

hearing prior to the end of the maximum period of commitment in this case, it lacked jurisdiction to review Mr. Carter’s competency after he was released under Section 31-9-1.5(D)(4)(b).

Tracing the timeline confirms the statute’s structure. The court’s jurisdiction to prosecute expired on March 11, 2019, when Mr. Carter was found incompetent and lost jurisdiction to conduct a competency review on March 16, 2024, when he finished serving the maximum period of commitment. *See Rotherham*, 1996-NMSC-048, ¶ 13 (“The law has long recognized that it is a violation of due process to prosecute a defendant who is incompetent to stand trial.”); § 31-9-1.4-1.5, NMSA. Once that period expired – and the March 11, 2019, incompetency finding remained in effect – the court was left without jurisdiction to prosecute or conduct a competency hearing.³

II. The structure of the Act confirms that expiration ends criminal jurisdiction and due process requires termination of the criminal case.

“The term ‘jurisdiction,’ as applied to criminal courts, means the power to inquire into the fact, to apply the law, and to declare the punishment for an offense, in a regular course of judicial proceeding.” 21A C.J.S. Criminal Law and Procedure § 124 (2025). Criminal jurisdiction is not inherent or indefinite. It exists only to the extent conferred by the New Mexico Constitution and the Legislature, and a court’s

³ The State could have chosen to civilly commit Mr. Carter. *See* § 31-9-1.5 (D)(4)(b)–(c). It did not.

authority in a criminal case cannot extend beyond the limits established by statute. N.M. Const. art. VI, § 13; 22 C.J.S *Criminal Law: Procedural Safeguards* § 129 (2022); *Cf. State v. Sosa*, 2014-NMCA-091, ¶ 13 (“we agree with Defendant that a court does not retain indefinite jurisdiction even for the limited purpose of determining fugitive status”); *Cf. State v. Romero*, 2023-NMSC-008, ¶ 29 (“we direct the Rules of Criminal Procedure for State Courts Committee to clarify the time period during which a district court retains such jurisdiction [to amend an illegal sentence] in accordance with this opinion”).

Although Section 31-9-1.5 does not spell out every procedural step after the maximum commitment period expires, the State cannot convert that silence into an authorization for indefinite criminal jurisdiction. **[BIC 22–26]** When the Legislature is silent, courts look to the statute’s overall structure, function, and policy. *Delfino v. Griffo*, 2011-NMSC-015, ¶ 12, 150 N.M. 97. Statutes must be read as a harmonious whole and in reference to related provisions addressing the same subject matter. *State v. Baca*, 2005-NMCA-001, ¶ 9, 136 N.M. 667; *State v. Rivera*, 2004-NMSC-001, ¶ 13, 134 N.M. 768 (cleaned up). Where possible, courts construe statutes to avoid serious constitutional concerns. *City of Albuquerque v. Pangaea Cinema LLC*, 2013-NMSC-044, ¶ 23 (cleaned up).

The Act also preserves the State’s interests by allowing prosecution to resume if competency is restored, and by preserving civil-commitment pathways where

appropriate. *See* §§ 31-9-1.4 and 31-9-1.5 (allowing dismissals without prejudice, authorizing treatment aimed at restoration, and permitting extended commitment for certain enumerated offenses); *Rotherham*, 1996-NMSC-048, ¶ 28. Within that structure, the phrase “until expiration” is not a directory timing goal; it is the statute’s jurisdictional outer boundary. When a statute both creates judicial authority and defines the temporal scope of that authority, its procedural limits are jurisdictional. *See Ordunez*, 2012-NMSC-024, ¶ 9; *Godkin*, 2015-NMCA-114, ¶ 9; *see also Bowles v. Russell*, 551 U.S. 205, 214 (2007) (all holding that courts lack authority to extend jurisdictional deadlines established by statutes).

The principle that statutory limits may be treated as directory applies only when a delay does not injuriously affect the parties’ rights. That limitation defeats the State’s implied contention that § 31-9-1.5 grants the district court unlimited jurisdiction – an interpretation that would violate an incompetent defendant’s due process rights. **[BIC 10-14, 27]**

In *Redman v. Board of Regents of New Mexico School for Visually Handicapped*, 1984-NMCA-117, ¶¶ 16-17, 102 N.M. 234, A statute requiring a timely State Board hearing on a teacher’s dismissal was not deemed directory – despite prescribing no specific consequence for noncompliance – because time limits for administrative action are considered directory only when failure to act within the prescribed period does not injuriously affect the parties’ rights.

Here the statutory time limits directly protect a defendant's due process and liberty interest by restricting how long the court may exercise criminal jurisdiction over an incompetent defendant. Treating those limits as merely directory – and allowing jurisdiction to continue indefinitely after the statutory commitment period expires – would injuriously affect the defendant's rights.

Allowing jurisdiction to continue indefinitely after the statutory commitment period expires would subject an incompetent defendant to the continuing burdens of criminal accusation without any lawful mechanism to resolve the charges. An incompetent defendant who has completed his maximum period of commitment would remain under pending charges – subject to possible pretrial detention or arrest at any moment, yet without any mechanism to advance his case and outside the framework of the Act. Because the time limits safeguard substantial liberty and due process interest, they cannot be disregarded to create unlimited jurisdiction. *See State v. Garza*, 2009-NMSC-038, ¶ 35, 146 N.M. 499 (recognizing that prolonged, unresolved criminal charges prejudice a defendant by sustaining anxiety and, when detention occurs, by causing oppressive incarceration); *Barker v. Wingo*, 407 U.S. 514, 533 (1972) (recognizing that “even if an accused is not incarcerated prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion, and often hostility.”)

A. Section 31-9-1.5 contains a firm, nonwaivable endpoint that defines the court’s authority.

The statutory limits this section imposes are jurisdictional because the Legislature expressly confined the district court’s authority to review competency “until the expiration of the period of commitment.” § 31-9-1.5(D)(4)(b). This language does not merely regulate the timing of hearings; it defines the temporal scope of the court’s criminal authority. When the Legislature fixes the duration of criminal supervision and provides no mechanism for waiver or extension, New Mexico courts treat that limitation as jurisdictional. *See Ordunez*, 2012-NMSC-024, ¶ 9; *Godkin*, 2015-NMCA-114, ¶ 9; *see also Bowles v. Russell*, 551 U.S. 205, 214 (2007) (holding that courts lack authority to extend jurisdictional deadlines established by statutes).

New Mexico precedent consistently recognizes that criminal jurisdiction ends when a statutorily defined term of authority expires. Courts lose jurisdiction once a defendant has completed the sentence authorized by statute because the defendant acquires a legitimate expectation of finality in the criminal case. *Godkin*, 2015-NMCA-114, ¶ 9 (cleaned up) (“Because a defendant has a reasonable expectation of finality in his case, once the sentence is completely served, the trial court loses jurisdiction over it, including any ability to enhance the sentence.”). Likewise, the Supreme Court has held that courts lack authority to act after a statutory term governing criminal probation supervision has expired—even where proceedings

were initiated before the deadline. *State v. Ordunez*, 2012-NMSC-024, ¶ 9. These decisions reflect a fundamental principle of criminal jurisdiction: when the Legislature establishes the temporal limits of judicial authority, courts may not extend that authority beyond the statutory boundary.

Section 31-9-1.5 follows the same model. The statute authorizes detention of an incompetent and dangerous defendant only for a period tied to “the maximum sentence to which the defendant would have been subject had the defendant been convicted.” § 31-9-1.5(D)(2). By linking criminal commitment to the maximum possible sentence, the Legislature imposed a firm endpoint on the criminal court’s authority over the defendant. Once that period expires without restoration to competency, the statutory basis for continued criminal jurisdiction ends.

New Mexico case law interpreting the competency statute confirms this understanding. In *State v. Chorney*, the Court of Appeals emphasized that criminal commitment under Section 31-9-1.5 is temporary and must ultimately give way to civil proceedings if the defendant remains incompetent. The court observed that “[w]hatever the commitment term, at the end of the term under [Section 31-9-1.5] the State should evaluate whether to continue the commitment of a dangerous defendant through civil commitment process.” *Chorney*, 2001-NMCA-050, ¶ 17. The implication is clear: once the statutory commitment period ends, the criminal process cannot continue indefinitely.

Contrary to the State’s assertion, the Supreme Court’s recent decision in *Aragon v. Martinez*, 2025-NMSC-046, does not alter this conclusion. **[BIC 14, 16]** There, the Court held that missed review deadlines in a parole-review scheme were not jurisdictional because the statute did not terminate parole or otherwise withdraw the agency’s authority if a deadline was missed. *Id.* ¶¶ 21–22. Here, a missed 2-year-review hearing within an ongoing commitment period under Section 31-9-1.5 would likewise not divest jurisdiction. But *Aragon* underscores the critical distinction here.

Under the framework articulated in *Aragon*, a mandatory statutory deadline is jurisdictional when compliance with that deadline is essential to the proper operation of the statute. *See New Mexico Dep’t of Health v. Compton*, 2000-NMCA-078, ¶ 13; see also *State v. Cooley*, 2023-NMCA-089, ¶ 27. Determining whether a statutory time limit is jurisdictional therefore requires examining legislative intent, the statutory text as a whole, the objectives of the statute, and the consequences of construing the deadline one way or the other. *See Aragon*, 2025-NMSC-046, ¶ 21 (cleaned up). Applying that framework here confirms that the temporal limitation in Section 31-9-1.5(D)(4)(b) is jurisdictional.

Unlike the parole-review statute in *Aragon*, the competency statute does not merely regulate the timing of periodic hearings within an ongoing supervisory regime. Instead, it expressly defines the duration of the supervisory regime and district court authority by limiting competency review “until the expiration of the

period of commitment.” § 31-9-1.5(D)(4)(b). That endpoint is essential to the statute’s operation because the Act conditions criminal jurisdiction over an incompetent defendant on the existence of a valid commitment period tied to the maximum sentence the defendant could have received. Once that period expires, the statutory framework provides no mechanism for continued criminal supervision and instead directs the State to pursue civil commitment if continued restraint is warranted. *See* § 31-9-1.5(D)(4)(c); *Chorney*, 2001-NMCA-050, ¶ 17.

The distinction becomes clear when contrasted with a true jurisdictional endpoint in the parole context. Even under the parole statutes discussed in *Aragon*, the Parole Board’s authority over a defendant exists only for the duration of the parole term imposed in the sentence. If the parole period itself expires before the Board acts on an alleged violation, the Board would have no jurisdiction to adjudicate that violation because the statutory basis for supervision has ended. In that circumstance, the expiration of the parole term – unlike a missed internal review deadline – terminates the State’s authority over the parolee altogether. *See State v. Acuna*, 1985-NMCA-083, ¶ 11, 103 N.M. 279 (The court retained jurisdiction to correct the illegal sentence by adding the required period of parole because the correction occurred within the statutorily mandated parole period, rather than after that period had expired.) Section 31-9-1.5 operates in the same way. The expiration

of the commitment period is not simply a missed procedural deadline; it is the statutory event that ends the criminal court’s authority over the defendant.

Construing the statutory endpoint as non-jurisdictional would therefore permit the very result the Legislature sought to prevent – indefinite criminal jurisdiction over an incompetent defendant after the authorized commitment period has ended. Under the reasoning of *Aragon*, that temporal limitation is “essential to the proper operation of the statute” and therefore functions as a jurisdictional boundary on the district court’s authority.

Similarly, *Compton* treated statutory hearing deadlines in civil commitment proceedings as procedural because the governing statute allowed postponement for good cause and contemplated alternative remedies if deadlines were missed. *Id.* ¶¶ 10-11, 15–16. *Compton*, 2000-NMSC-078. **[BIC 13, 16-17]** Section 31-9-1.5 contains none of those features. It provides no mechanism to extend the commitment period, no waiver provision, and no alternative remedy that would permit continued criminal jurisdiction after the statutory endpoint. Instead, the statute’s subsequent clause makes clear that once the commitment period expires, the criminal-commitment framework gives way to civil commitment proceedings. § 31-9-1.5(D)(4)(c) (1999).

Other New Mexico cases evaluating statutory deadlines likewise emphasize whether the Legislature provided a mechanism for waiver or extension. *See State v.*

Kerby, 2007-NMSC-014, ¶¶ 12-19, 141 N.M. 413 (criminal statutes of limitations are non-jurisdictional as they may be waived by defendants when it benefits the defense); *Redman v. Board of Regents*, 1984-NMCA-117, ¶¶ 7, 20-21, 102 N.M. 234 (concluding that mandatory language in statute providing teachers with option of a *de novo* appeal of dismissal from teaching was not jurisdictional because the hearing could be postponed if waived or for good cause).

Where the statutory scheme allows flexibility, courts treat deadlines as procedural. But where the Legislature establishes a firm limit on governmental authority and provides no mechanism for extension, the limitation operates as a jurisdictional boundary. *See State v. Taxation & Revenue Dep't Bargas*, 2000-NMCA-103, 129 N.M. 800 (holding that ninety-day time limit prescribed by statute for revocation of driver's license is jurisdictional and cannot be waived and basing its decision on the remedial aims of the statute); *cf Stephens v. State Transp. Dept., Motor Vehicle Div.*, 1987-NMCA-095, 106 N.M. 198 (concluding that the motor vehicle division lacked jurisdiction to institute revocation proceedings because the officer failed to comply with statutory requirement of providing statement under penalty of perjury).

Section 31-9-1.5 falls squarely within that latter category. The statute uses mandatory language, defines competency review within a fixed commitment period tied to the maximum sentence, and contains no provision allowing the court to

extend or continue criminal jurisdiction beyond that point. The statutory design therefore ensures that competency proceedings do not evolve into indefinite criminal supervision over a defendant who cannot be tried.

The State attempts to avoid the statute’s clear temporal limitation by invoking cases addressing statutory silence, substantial compliance, and non-jurisdictional time limits, citing the following cases: *Stennis v. City of Santa Fe*, 2010-NMCA-108, ¶ 10, 149 N.M. 92; *State v. Maestas*, 2007-NMSC-001, ¶ 13, 140 N.M. 836; *Harrow v. Department of Defense*, 601 U.S. 480 (2024). **[BIC 11, 12, 15-16, 20, 26]** None of those authorities apply here. They concern ordinary procedural rules governing litigation, not statutes that define the outer boundary of criminal jurisdiction over an incompetent defendant.

The competency statute is fundamentally different. Section 31-9-1.5(D)(4)(b) creates the only criminal jurisdiction that exists once a dangerous defendant has been found incompetent and is unlikely to regain competency, and it expressly limits that authority “until the expiration of the period of commitment.” Because the statute both creates and limits the court’s authority, its temporal restriction defines the scope of jurisdiction itself.

The state relies on *State v. Maestas* to argue that court may look beyond statutory language when silence creates ambiguity. **[BIC 26]** That reliance is misplaced. *Maestas* stands for the opposite principle: courts must enforce statutes

exactly as written unless the language is ambiguous or produces an absurd result. 2007-NMSC-001, ¶ 9, 140 N.M. 836.

In *Maestas*, this Court reversed a conviction because the statute *expressly excluded* judges from the Governmental Conduct Act, and this Court refused to rewrite the statute to expand its reach. *Id.* ¶¶ 13-15. This Court emphasized two core principles of statutory interpretation: (1) courts must give effect to the words chosen by the Legislature, and (2) courts may not rewrite statutes to achieve what they believe to be better policy. *Id.* ¶ 24. Those principles directly support Mr. Carter’s position. Here, the Legislature used explicit limiting language, “until the expiration of the period of commitment.” Under *Maestas*, courts must give effect to that endpoint. To interpret the statute as permitting competency proceedings after the expiration of the commitment period would require the very sort of judicial expansion that *Maestas* expressly warns against.

The State’s also cites *Harrow v. Department of Defense* to argue that statutory timing provisions are often non-jurisdictional and subject to equitable exceptions. [BIC 11, 12, 15] The argument misunderstands the holding in *Harrow*. The case addressed a deadline for filing an appeal to a federal court, which the Supreme Court held was non-jurisdictional claim-processing rule “subject to exceptions like waiver, forfeiture, and equitable tolling.” 601 U.S. 480, 488-489 (2024). The decision rests on a key distinction: jurisdictional rules define a court’s power; procedural filing

rules govern litigation conduct. *Id.* at 481, 484 The deadline in *Harrow* fell into the latter category because it merely regulated when a litigant must file an appeal. Section 31-9-1.5(D)(4)(b) is fundamentally different.

The statute does not regulate litigation timing. Instead, it defines the duration of criminal authority over an incompetent defendant. The provision states that the court shall review competency “until the expiration of the period of commitment equal to the maximum sentence.” This language does not function as a procedural filing deadline. It defines the maximum duration of criminal jurisdiction itself. Thus, unlike the filing deadline in *Harrow*, the statute here directly “marks the bound of a court’s power.” *Id.* at 480.

III. The State’s argument that the court did not lose jurisdiction under Section 31-9-1.5 after Mr. Carter’s release from commitment would lead to absurd and unjust results.

Although Mr. Carter had finished the maximum time to which he could be committed under Section 31-9-1.5, the State seems to argue that the court has unlimited jurisdiction to continue to hold competency proceedings for an indefinite period of time under 31-9-1.5. **[BIC 8-23]**

In addition to being inconsistent with the language and purpose of the provision, the State’s construction leads to absurd and undesirable results that would endanger constitutional rights. *Provisional Gov’t of Santa Teresa v. Doña Ana Cnty. Bd. Of Comm’rs*, 2018-NMCA-070, ¶ 27 (cleaned up). (“Courts will not construe a

statute in a manner that produces an absurd result. This rule is most often invoked when applying the plain or literal meaning of the words of the Statute leads to an absurd result, but it is equally if not more applicable as a ground for insisting on the words' plain meaning to *avoid* an absurdity.”).

Carrying the State's position to its logical conclusion reveals the flaw in its interpretation. In a case where an incompetent and dangerous defendant is charged only with the enumerated offenses under Section 31-9-1.4(A), the district court would retain jurisdiction even after the defendant completed the maximum period of commitment and was released from custody, permitting the court to conduct competency reviews indefinitely and without any procedural deadlines. In other words, the State's interpretation effectively grants trial courts unlimited jurisdiction over an incompetent defendant who has already served the maximum period of commitment authorized by statute.

Such a result cannot be reconciled with the Legislature's design. It would be illogical to conclude that the Legislature intended to terminate the court's authority to conduct competency reviews under the plain language of the statute, yet simultaneously preserve the court's jurisdiction over the criminal case itself. The core function of § 31-9-1.5 is to govern competency review and commitment. To read the statute as preserving jurisdiction while prohibiting the court from addressing those central matters – merely because the provision refers to the defendant's release

– would produce a result that is both irrational and inconsistent with the statute’s structure. **[BIC 25-26]**

Courts do not construe statutes in a manner that produces absurd or unreasonable results. See *State v. Rivera*, 2004-NMSC-001, ¶ 10; *Investment Co. of the Southwest v. Reese*, 1994-NMSC-051, 117 N.M. 655 (reaffirming that when literal statutory language leads to consequences the Legislature could not have intended, courts must look beyond the statute’s text). This principle carries particular force in the criminal context, where a court’s jurisdiction exists only to the extent authorized by statute. Accordingly, when the Legislature imposes clear temporal limits on criminal supervision or prosecution, those limits must be enforced as written. See *Ordunez*, 2012-NMSC-024, ¶¶ 9–10.; see also *Toussie v. United States*, 397 U.S. 112, 114–115 (1970) (statutes of limitation exist to prevent indefinite exposure to criminal prosecution unless the Legislature expressly provides for continuing jurisdiction).

Interpreting the statute to permit indefinite or unlimited jurisdiction would undermine the Legislature’s decision to impose fixed temporal boundaries and would create precisely the type of absurd and unconstitutional results courts are obligated to avoid. See *Jackson*, 406 U.S. 715 (1972) (holding that the State may not indefinitely confine an incompetent defendant solely on the basis of incompetence); *United States v. Hudson*, 11 U.S. 32 (1812) (federal courts cannot exercise common-

law criminal jurisdiction over offenses; their authority must be expressly conferred by Congress, thereby preventing indefinite or undefined criminal jurisdiction); *United States v. Marion*, 404 U.S. 307, 320 (1971) (cleaned up) (limitation periods protect individuals from indefinite prosecutorial exposure and the attendant burdens on liberty, employment, finances, associations, public reputation, and the anxiety imposed on the defendant and those close to him).

New Mexico courts apply the same principle, recognizing that statutes must be construed so their application is neither absurd nor unreasonable. *Midwest Video v. Campbell*, 1969-NMSC-034, ¶ 9, 80 N.M. 116. And although courts ordinarily adhere to the plain language of a statute, they will depart from that language when necessary to resolve an absurdity the Legislature could not have intended or to reconcile an irreconcilable conflict. *In re Borland*, 2012-NMCA-108, ¶ 9.

It is absurd to think the legislature, which otherwise took care to create time limits throughout the Act, intended to let these cases languish for an indefinite period of time with no procedural guardrails. See §§ 31-9-1.1 (time limits for competency hearing in felony and non-felony cases), 31-9-1.2 (time limit for admission to treatment facility), (time limit for DOH certification of inability to admit), (time limit for court hearing after certification), (time limit for initial treatment report), (time limit for temporary confinement for civil commitment), 31-9-1.3 (time limit for initial treatment review hearing), (time limit to provide progress report), 31-9-1.4

(time limit to attempt to restore to competency), 31-9-1.5 (time limit for evidentiary hearing), (time limit on criminal commitment).

And it is absurd to think the legislature sought to require busy courts to continuously hold proceedings for released incompetent defendants who have served the maximum time possible rather than dismissing and making the State determine how it wishes to proceed (whether with civil commitment or by refiling the charges). *Cf. State v. Skeets*, __P.3d__, S-1-SC-40418 (2026) (when the State can refile charges or seek an indictment, continuing appellate litigation only creates unnecessary delay and burdens the courts.)

In sum, it would be absurd to bar dismissal when the defendant is incompetent and dangerous and done serving his maximum period of commitment while not barring dismissal when the defendant is incompetent and dangerous and *was not* committed to NMBHI. *See* § 31-9-1.4 (A), (B). Because the State's construction leads to absurd results, it should be rejected.

In addition, the State's position would infringe on incompetent defendants' due process rights and other constitutional rights. As noted above, the Act was enacted and amended to protect the due process rights of incompetent defendants. A system that creates indefinite jurisdiction over incompetent defendants would be plainly contrary to such efforts. Indefinite jurisdiction would also circumvent their speedy trial rights and the statute of limitation. *See State v. Spearman*, 2012-NMSC-

023, ¶ 47 (Daniels, J., specially concurring) (recognizing the need to “protect the accused's right to a speedy trial without sacrificing society's interest in enforcement of its criminal laws”); *State v. Kerby*, 2007-NMSC-014, ¶ 18, 141 N.M. 413 (the statute of limitations is a substantive right); *see also State v. Morales*, 2010-NMSC-026, ¶ 10, 148 N.M. 305 (cleaned up) (“Criminal statutes of limitation represent legislative assessments of relative interests of the [s]tate and the defendant in administering and receiving justice; they are made for the repose of society and the protection of those who may (during the limitation) have lost their means of defen[s]e.”).

To avoid these absurd and unjust results, this Court should affirm the trial court order finding it lacked jurisdiction to continue to hear competency proceedings under Section 31-9-1.5(D)(4)(b). The trial court’s construction follows the plain language of Section 31-9-1.5(D)(4)(b), is consistent with the structure and purposes of the Code at large, and avoids absurd, unjust, and potentially unconstitutional results.

IV. The State’s “substantial compliance” argument also fails because jurisdiction cannot be created by equitable doctrine.

The State also invokes authorities discussing mandatory versus directory statutory provisions and the possibility of substantial compliance. **[BIC 11, 12, 14, 20-21]** Those authorities do not apply here. The substantial compliance doctrine does not apply to jurisdictional issues. New Mexico law distinguishes between procedural

directives (governing how a statute is implemented) and jurisdictional limits (defining when a court has authority to act). Only the former can be satisfied through substantial compliance. The latter on the other hand must be strictly observed. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007) (holding that courts lack authority to create equitable exceptions to jurisdictional requirements). Even the sources cited by the State recognize this distinction. Section 31-9-1.5 is plainly essential.

Allowing substantial compliance to extend competency proceedings beyond the statutory period would effectively rewrite Section 31-9-1.5(D) and undermine the separation of powers by enlarging judicial authority beyond the limits the Legislature imposed. The entire purpose of the competency statutes – enacted in response to *Jackson v. Indiana* – is to prevent indefinite criminal detention of incompetent defendants. For that reason, the temporal limitation is not a directory procedural guideline. It is the statute’s structural safeguard against indefinite criminal jurisdiction. Treating the statutory endpoint as a true jurisdictional boundary preserves the Legislature’s carefully calibrated balance between due process protections for incompetent defendants and the State’s interests in public safety and prosecution. *State v. Lopez*, 2009-NMCA-112, ¶ 12, 147 N.M. 279 (Although commitment under Section 31-9-1.5 is not punitive, it is predicated on a finding of dangerousness and entails a substantial loss of liberty.).

Section 31-9-1.5 establishes a finite period during which criminal jurisdiction over an incompetent defendant may exist. Once the maximum commitment period tied to the defendant's potential sentence expires without restoration to competency, the district court's authority over the criminal case ends. At that point, the statute directs the State to pursue any further restraint through civil commitment proceedings rather than continued criminal jurisdiction. The State has not done so here. Mr. Carter was released on March 15, 2024, and remains at liberty. **[BIC 16]**

REMEDY

- V. Section 31-9-4.5(E) requires the dismissal of all the criminal charges upon the expiration of period of commitment – including charges for offenses that were either not included within the scope of, or that the district court has not considered under the provision.**

When a court lacks jurisdiction, it cannot continue to exercise judicial authority over the case. A proceeding conducted without jurisdiction is void. *See State v. Chavarria*, 2009-NMSC-020, ¶ 11, 146 N.M. 251 (jurisdiction concerns whether the matter falls within the authority conferred by statute or constitution). For example, once a probation term expires without revocation, the court loses authority over the defendant. *See Supra I*; *see also Ordunez*, 2012-NMSC-024, ¶¶ 9, 21-22; *see also* NMSA 1978, § 31-20-8. The same principle governs here. Once the commitment period ends, the statute provides no further authorization for criminal proceedings.

At that point, the criminal case cannot continue because the court no longer has jurisdiction to conduct competency hearings, prosecute the charges, or maintain criminal supervision. The criminal proceeding must therefore terminate. *See* § 31-9-1.5(D)(1)(2), (4). If the defendant remains incompetent and he has already served the maximum period of commitment, § 31-9-1.5 has been fully satisfied, and civil commitment remains the only remaining option. The criminal cause can proceed no further under the Act.

A. The structure of the Act confirms that the Legislature intended the criminal case to end when the commitment period expires.

The structure of the Act demonstrates that the Legislature intended the criminal proceedings to end upon the expiration of the statutory commitment period. Throughout Sections 31-9-1 through 31-9-1.5, the Legislature imposed numerous deadlines and procedural checkpoints designed to prevent indefinite criminal restraint. These include: deadlines for competency evaluations; deadlines for admission to treatment facilities; periodic competency review hearings; determinations regarding restoration prospects; and dismissal provisions when restoration is unlikely. *See* § 31-9-1.1 through § 31-9-1.5.

These statutory checkpoints reflect the Legislature's effort to balance two interests: protecting the public and safeguarding the constitutional rights of incompetent defendants. *See Rotherham*, 1996-NMSC-048, ¶¶ 13-14, 21, 23. The maximum commitment period functions as the statute's final safeguard. It ensures

that criminal jurisdiction does not extend beyond the period the Legislature deemed appropriate for the offense. After the commitment period expires, the State's remaining options exist. The Act preserves two alternative pathways. First, the statute permits referral for civil commitment under the Act if the defendant remains dangerous. § 31-9-1.5(D)(4)(b). Second, if the defendant later regains competency, the State may dismiss the case without prejudice and pursue prosecution through a new criminal proceeding, subject to applicable statutes of limitation and constitutional protections.

These mechanisms reflect the Legislature's deliberate choice to separate continued restraint from the expired criminal cause. Once the maximum commitment period expires, the criminal process ends.

B. Counts that supported the criminal commitment must be dismissed with prejudice.

Although the criminal case must terminate, the disposition of the charges depends on their relationship to the statutory commitment. Here, the district court's commitment order was based on specific enumerated offenses that satisfied the statutory criteria for extended commitment under Section 31-9-1.5(D). *See* § 31-9-1.4(A), § 31-9-1.5. Mr. Carter served the full statutory commitment period based on those charges. Because the statute permits criminal commitment only for a period equal to the maximum sentence the defendant could have received if convicted, the Legislature has effectively created a substitute mechanism for criminal punishment

for those offenses when trial cannot occur due to incompetency. *Baca*, 2019-NMSC-014, ¶ 8. This Court has recognized that such commitment may result in a lifetime deprivation of liberty equivalent to a life sentence despite the absence of a conviction. *Id.* ¶¶ 13, 16.

By tying detention to the maximum criminal sentence, the Legislature established the commitment period as the statutory ceiling on the State's authority to restrain the defendant for those offenses. Once that period has expired, the defendant has endured the maximum deprivation of liberty the Legislature authorized for those crimes. Allowing prosecution of those same counts afterward would defeat the statute's purpose and render the maximum-sentence limitation meaningless; effectively permitting additional deprivation of liberty beyond the statutory maximum in a pretrial detention context. *See* N.M. Const. Art. 2, § 13 (bail may be denied on grounds of dangerousness if the State proves "by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community"). Such a result would undermine the Legislature's carefully calibrated balance between public safety and the due process rights of incompetent defendants.

Permitting the State to revive the same criminal counts after the defendant has already endured the maximum deprivation authorized by Section 31-9-1.5 would upset the balance and effectively extend a defendant's constrained liberty beyond

the statutory maximum – an outcome inconsistent with both due process and the finality principles recognized in cases such as *Ordunez* and *Godkin*. See *Ordunez*, 2012-NMSC-024, (The *Ex Post Facto* Clause categorically prohibits “the retroactive application of penal legislation.”); *Godkin*, 2015-NMCA-114, ¶ 9 (“because a defendant has a reasonable expectation of finality in his case, once the sentence is completely served, the trial court loses jurisdiction over it”)(cleaned up), ¶ 7 (a sentence may be unconstitutional if not within objectively reasonable expectations of finality); *Rotherham*, 1996-NMSC-048, ¶¶ 39, 41 (affirming the due process limitations on confinement due to incompetence); *Jones v. United States*, 463 U.S. 354, 361 (1983) (same)

The constitutional principles underlying the competency code reinforce this interpretation. Criminal commitment statutes must prevent indefinite detention based solely on incompetency, and the duration of confinement must remain tied to reasonable statutory limits. Once the statutory commitment period expires, the State has exhausted the authority granted by § 31-9-1.5 with respect to those offenses. See § 31-9-1.4(B) (gives the court discretion to dismiss the case with prejudice even if the incompetent defendant is guilty of one of the enumerated charges listed in § 31-9-1.4(A)).

C. Counts Not Used to Support the Commitment Should be Dismissed without Prejudice.

A different result applies to counts that were not relied upon to justify the § 31-9-1.5 commitment. The commitment statute authorizes detention only after the court determines, by clear and convincing evidence, that the defendant committed certain enumerated offenses. § 31-9-1.5 (D). The maximum commitment period is therefore calculated based on those specific offenses. The defendant therefore has not served any statutory equivalent of punishment for those counts. For that reason, dismissal of those counts should be without prejudice.

This approach is consistent with the broader structure of the Act, which repeatedly authorizes dismissal without prejudice when competency cannot be restored. For example: § 31-9-1 (If the defendant's competency is raised in metropolitan court and the court finds the defendant incompetent to proceed, the case must be transferred to district court unless it is dismissed upon a party's motion.); § 31-9-1.2(A) permits dismissal without prejudice when a defendant is incompetent but not dangerous; § 31-9-1.4(B), (C) allows dismissal with or without prejudice when restoration to competency is unlikely *even if* the defendant is dangerous. These provisions demonstrate that the Legislature anticipated that criminal cases involving incompetent defendants would often terminate without a final adjudication of guilt – at the discretion of the court – while preserving the

State's ability to prosecute if competency is later restored (the purpose behind dismissal without prejudice). [BIC 23-29]

D. This hybrid dismissal framework best harmonizes the statute.

This approach – dismissal with prejudice for counts that supported the commitment and without prejudice for remaining counts – best harmonizes the statutory scheme. It respects four core principles underlying the competency code: (1) statutory limits on detention; (2) protection against indefinite criminal jurisdiction and preservation of a defendant's due process rights and expectation of finality; (3) protection of legitimate prosecutorial interests; (4) the court's broad discretion. *See* Section I, II, II, IV, V, *supra*. The defendant has already served the statutory equivalent of punishment for the offenses used to justify commitment. By contrast, charges not implicated with the commitment proceeding have never been adjudicated or used to justify detention, and the State's ability to pursue them should therefore remain intact subject to ordinary procedural constraints – such as a good-faith basis to believe the defendant was restored to competency.

E. In the Alternative: All Counts Should be Dismissed Without Prejudice.

In the alternative, if this Court concludes that dismissal with prejudice is not required for the counts underlying the criminal commitment, then all counts should be dismissed without prejudice because the district court's jurisdiction under that cause number has ended. If the State has a good-faith basis to believe the defendant

has retained competency then the issue may be addressed anew under the Act triggering all the procedural guardrails contained within Section 31-9-1. To 31-9-1.2. *See* §31-9-1.1(D) (the defendant may be committed to an appropriate facility “for a period not to exceed sixty days” for evaluation); § 31-9-1.1. (E) (the evaluation report must be submitted within the authorized evaluation commitment period); § 31-9-1.1(F) (the court must hold a competency hearing within thirty (30) days after receiving the evaluation report); § 31-9-1.2 (if the defendant is found incompetent but likely to become competent, the court may commit the defendant for treatment for a period not exceeding nine (9) months); § 31-9-1.2(B) (reports are generally required every sixty (60) days (or as otherwise ordered by the court) while the defendant is undergoing treatment); § 31-9-1.2(C) (at the end of the treatment period (up to nine months), the court must determine whether the defendant has been restored to competency, or remains incompetent).

This sequential structure demonstrates legislative intent to prevent indefinite jurisdiction over an incompetent defendant, a point that aligns with the *Jackson v. Indiana* due process limitation and supports arguments that courts cannot extend proceedings outside the statutory limits.

In *Rotherham*, this Court characterized commitment under § 31-9-1.5 as regulatory rather than punitive. 1996-NMSC-048, ¶ 53. Thus, if this Court concludes that an incompetent defendant lacks a reasonable expectation of finality

– even after years of confinement – because the resulting deprivation of liberty is not punitive, then dismissal without prejudice could arguably apply to all counts, including those underlying the commitment at NMBHI. Under that view, the expiration of the commitment period does not operate as the equivalent of serving a criminal sentence; it merely marks the end of the State’s authority to detain the defendant while he remains incompetent and allows the State to seek a conviction. This may be why the Legislature permits dismissal without prejudice when competency cannot be restored. *See* § 31-9-1.2(A) (incompetent and not dangerous); § 31-9-1.5(C) (criminal act proven but the defendant is not dangerous pursuant to § 31-9-1.2).

Although, if the defendant later attains competency, any future convictions would be subject to presentence confinement credit for the period of commitment, as well as applicable constitutional protections and statutes of limitation. *See State v. La Badie*, 1975-NMCA-032, ¶¶ 5, 14, 87 N.M. 391 (holding that a defendant found incompetent and committed to a mental health facility on felony charges in a suspended criminal case must receive credit for time spent in presentence confinement); *State v. Lopez*, 2009-NMCA-112, ¶ 12, 147 N.M. 279 (“The involuntary nature of commitment under § 31-9-1.5(D) and the associated loss of liberty is the key aspect of commitment constituting ‘official confinement’ equivalent to a sentence based on a conviction within the meaning of [the statute]”);

State v. Padilla, 2025-NMSC-048, ¶¶ 31-32, 37-38 (declining to adopt common-law tolling principles in applying the statute of limitations and holding that charges refiled after a prior dismissal without prejudice – once the limitations period had expired and no statutory tolling applied – were time-barred).

VI. Any further prosecution must assess the statutes of limitation, competency, and speedy trial implications under Section 31-9-1 through 31-91.5

When the State initiates prosecution by filing a complaint, indictment, or information within the applicable limitations period, the statute of limitations is satisfied and no longer governs the case while it remains pending. The statute of limitation functions only as a bar to initiating prosecution after a specified period, not as a continuing constraint once charges have been timely filed. *See State v. Padilla*, 2025-NMSC-048 (“Under the first meaning of tolling, when an original indictment is filed, the clock is stopped for the duration of that proceeding.”). Accordingly, when a defendant is charged within the limitations period and subsequently found incompetent to stand trial, the case remains active, and the court may proceed under the competency statutes set forth in NMSA 1978, §§ 31-9-1 to 31-9-1.5.

Thus, during the period in which the defendant is undergoing competency evaluation, treatment, or commitment, the statute of limitations is no longer relevant

to the ongoing case presumably because the prosecution was already initiated within the statutory time limit.

A. The statute of limitation becomes relevant only if the charges are dismissed without prejudice.

If charges are dismissed without prejudice under the competency statutes, any later prosecution must proceed as a new case. *Padilla*, 2025-NMSC-048, ¶¶ 17, 37 (explaining that when an original prosecution is dismissed, a later prosecution must proceed through the filing of a new indictment, information, or complaint, because only a superseding indictment – filed while the original charge remains pending – constitutes a continuation of the same action). Once the original case is dismissed the State must initiate a new prosecution by filing a new charging document. *Padilla* explains that the viability of that prosecution depends on whether time remained under the statute of limitations when the original case was filed. *See id.* ¶¶ 14-16.

Filing the original case within the limitations period satisfies the statute of limitations for that case; however, if the case is later dismissed without prejudice, the State may refile only within the time that remained under the limitation period when the original case was initiated. *Padilla* rejected the notion that courts may create common-law tolling doctrines to extend criminal limitation periods beyond the statutory scheme enacted by the Legislature. *Padilla*, 2025-NMSC-048, ¶¶ 37-38. Accordingly, unless one of the statutory tolling provisions in § 30-1-9 applies – or the Legislature amends the statute to include commitment under § 31-9-1.5 within

its tolling framework – the State may not revive charges once the limitation period has expired.

Even where the statute of limitations does not bar refiling, renewed prosecution following a lengthy competency commitment may raise substantial constitutional speedy-trial concerns. The Sixth Amendment to the United States Constitution and Article II, Section 14 of the New Mexico Constitution guarantee criminal defendants the right to a speedy trial. U.S. Const. amend. VI; N.M. Const. Art. II, § 14. Courts evaluate alleged violations of this right under the balancing framework established in *Barker v. Wingo*, 407 U.S. 514 (1972), which considers the length of delay, the reasons for the delay, the defendant’s assertion of the right, and prejudice to the defendant. *Id.* at 530-532.

Competency commitments under Section 31-9-1.5 may last for years because the statute ties the permissible period of commitment to the maximum sentence for the charged offense. If charges are dismissed after that period and later refiled once a defendant becomes competent, courts must evaluate whether the resulting delay is consistent with constitutional speedy-trial protections. Extended delays of this nature may create significant prejudice, including faded memories, lost evidence, unavailable witnesses, and diminished ability for the defendant to assist counsel. These are precisely the harms that statutes of limitation and speedy-trial guarantees are designed to prevent.

Read together, the statute of limitations provisions, *State v. Padilla*, and the competency statutes establish a coherent statutory structure. The State must initiate prosecution within the applicable limitations period. Once charges are filed, the statute of limitations is satisfied and the case proceeds under the competency framework set forth in Sections 31-9-1 through 31-9-1.5. If the defendant cannot be restored to competency within the statutory commitment period, the criminal charges must be dismissed and the State may pursue civil commitment instead. Should the State later attempt to prosecute the defendant after competency is restored, the statute of limitations and constitutional speedy-trial protections again operate as safeguards against stale or indefinite criminal prosecution.

This structure reflects the Legislature's deliberate balance between competing interests: affording the State a meaningful opportunity to restore defendants to competency and pursue prosecution, while safeguarding due process and preventing the indefinite criminal exposure and commitment condemned by the United States Supreme Court in *Jackson v. Indiana*. See *Supra* I, II, III.

B. The commitment stipulation does not preserve indefinite criminal jurisdiction and does not permit the State to re-litigate the charges that supported the commitment.

The stipulation supporting Mr. Carter's commitment served a narrow purpose: it functioned only as an evidentiary shortcut allowing the district court to determine whether clear and convincing evidence supported certain enumerated offenses

sufficient to justify commitment under Section 31-9-1.5. It did not preserve criminal jurisdiction beyond the statutory commitment period or reserve the State's ability to relitigate those offenses after the defendant served the full term authorized by the statute. Reading the stipulation to preserve continuing criminal authority would transform a limited evidentiary mechanism into a tool for indefinite criminal supervision – precisely the result the statute and the constitution forbid.

Because Mr. Carter has now served the entire commitment period, allowing the State to prosecute those same charges would nullify the Legislature's limitation on commitment and effectively permit a deprivation of liberty beyond the maximum authorized by law. Those counts must therefore be dismissed with prejudice.

The State cannot expand the basis for commitment after the fact by relying on charges it chose not to prove at the commitment hearing. The statute requires the commitment period to be determined based on the offenses established at that proceeding. Allowing the State to revive additional charges years later would defeat the statute's design and eliminate certainty regarding the duration of criminal restraint.

Charges not used to establish the commitment period stand on a different footing. If Mr. Carter later regains competency, the State may pursue those counts in a new prosecution, subject to the ordinary constraints of criminal procedure.

Interpreting the stipulation to preserve continuing criminal authority would recreate the constitutional problem the competency statutes were enacted to prevent—indefinite criminal jurisdiction over an incompetent defendant in violation of *Jackson v. Indiana*. The stipulation therefore cannot be read to extend criminal jurisdiction beyond the statutory commitment period.

CONCLUSION

For the foregoing reasons, this Court should affirm the district court's determination that it lacked jurisdiction to conduct a competency hearing after Mr. Carter's release from NMBHI. Section 31-9-1.5(D)(4)(b) terminates the court's authority to conduct competency review upon expiration of the maximum period of commitment, thereby requiring dismissal of the criminal case and leaving the State to pursue any further action only through the statute's authorized alternatives, including civil commitment or refiling where permitted.

Respectfully submitted,

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CERTIFICATE OF DELIVERY

I hereby certify that a copy of this pleading was filed electronically and, upon acceptance and filing, a copy emailed to criminalappealsservice@nm DOJ.gov at the NMDOJ Criminal Appeals Division this **16th** day of March, 2026.

/s/ *Jasmine Solomon*

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