

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

2   **March 17, 2022**

3  
4   **NO. 22-8500-013**

5   **IN THE MATTER OF THE TEMPORARY**  
6   **SUSPENSION OF REQUIRED INITIAL**  
7   **HEARINGS UNDER RULES 7-403(D)(1)**  
8   **AND 7-802(C)(2) NMRA OF THE RULES**  
9   **OF CRIMINAL PROCEDURE FOR THE**  
10 **METROPOLITAN COURTS**

11  
12   **ORDER**

13           WHEREAS, this matter having come before the Court upon recommendation  
14 by the Bernalillo County Metropolitan Court to temporarily suspend the deadlines  
15 for initial hearings for alleged violations of conditions of release or probation under  
16 Rules 7-403(D)(1) and 7-802(C)(2) NMRA of the Rules of Criminal Procedure for  
17 the Metropolitan Courts;

18           WHEREAS, under Rule 7-403(A)(1), (D)(1) NMRA, when a defendant is  
19 alleged to have violated a condition of release and the defendant is in custody at the  
20 local detention center, the court must hold an initial hearing as soon as practicable  
21 but no later than three (3) days after the defendant is detained;

1           WHEREAS, under Rule 7-802(B), (C)(2) NMRA, when a probationer is  
2 alleged to have violated a condition of probation and the probationer is in custody at  
3 the local detention center, the court must hold an initial hearing as soon as practicable  
4 but no later than three (3) days after the probationer is detained;

5           WHEREAS, under Rule 7-403(A)(1), (E)(1) NMRA, when a defendant is  
6 alleged to have violated a condition of release and the defendant is in custody, the  
7 court must hold an evidentiary hearing as soon as practicable but no later than seven  
8 (7) days after the initial hearing;

9           WHEREAS, under Rule 7-802(B), (D) NMRA, when a probationer is alleged  
10 to have violated a condition of probation and the probationer is in custody, the court  
11 must hold an adjudicatory hearing on the violation charged as soon as practicable  
12 but no later than ten (10) days after the initial hearing;

13           WHEREAS, the Metropolitan Detention Center in Bernalillo County has been  
14 operating under the Center for Disease Control and the New Mexico Department of  
15 Health COVID-19 protocols;

16           WHEREAS, compliance with these protocols requires that all inmates are  
17 quarantined upon intake and housed according to their medical status;

1           WHEREAS, these protocols further require that an inmate be tested for  
2 COVID-19 between five (5) and seven (7) days of intake and that if an inmate tests  
3 negative, the inmate can be moved to general population on day eleven (11) of  
4 quarantine;

5           WHEREAS, if an inmate refuses to take a COVID-19 test, the inmate must  
6 remain quarantined for fourteen (14) days before moving to general population on  
7 the fifteenth (15th) day;

8           WHEREAS, the Metropolitan Detention Center has limited equipment and  
9 virtual courtroom space available for defendants in quarantine;

10           WHEREAS, in addition to the needs of the Bernalillo County Metropolitan  
11 Court, the Second Judicial District Court also requires use of the limited virtual  
12 hearing space at the Metropolitan Detention Center to conduct required hearings;

13           WHEREAS, given the competing needs of the Second Judicial District Court,  
14 the Bernalillo County Metropolitan Court has encountered difficulties scheduling  
15 initial violation hearings as required by Rules 7-403(D)(1) and 7-802(C)(2);

16           WHEREAS, the Bernalillo County Metropolitan Court also requires use of  
17 the limited virtual in-custody hearing space at the Metropolitan Detention Center to

1 conduct first appearances for alleged felony cases and custody arraignments for  
2 alleged misdemeanor cases; and

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

6 NOW, THEREFORE, IT IS ORDERED that the TEMPORARY  
7 SUSPENSION of all initial hearings for defendants being held in custody for an  
8 alleged violation of a condition of release under Rule 7-403(D)(1) NMRA and all  
9 initial hearings for probationers being held in custody for an alleged violation of a  
10 condition of probation under Rule 7-802(C)(2) NMRA is APPROVED for all cases  
11 filed or pending in the Bernalillo County Metropolitan Court on or after **March 17,**  
12 **2022.**

13 IT IS FURTHER ORDERED that for as long as the suspension of initial  
14 hearings remains in place for in-custody defendants, the evidentiary hearing on any  
15 alleged violation of a condition of release under Rule 7-403(E) NMRA shall be held  
16 as soon as practicable but no later than seven (7) days after the defendant is detained.

17 IT IS FURTHER ORDERED that for as long as the suspension of initial  
18 hearings remains in place for in-custody probationers, the adjudicatory hearing on

1 any alleged violation of a condition of probation under Rule 7-802(D) NMRA shall  
2 be held as soon as practicable but no later than ten (10) days after the probationer is  
3 detained.

4 IT IS FURTHER ORDERED that the above-referenced temporary suspension  
5 of Rules 7-403(D)(1) and 7-802(C)(2) NMRA shall be **effective March 17, 2022.**

6 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 17th day of March, 2022.

Sally A. Paez, Acting Clerk of Court  
Supreme Court of New Mexico

A handwritten signature in black ink that reads "Sally A. Paez".

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Sally A. Paez, Acting Chief Clerk of the Supreme Court  
of the State of New Mexico

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