IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

June 16, 2020

NO. 20-8500-022

IN THE MATTER OF DEADLINES FOR PLEA AND SETTLEMENT AGREEMENTS IN CRIMINAL AND CIVIL CASES SET FOR TRIAL DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

ORDER

WHEREAS, this Court recently authorized courts to resume civil and criminal jury trials subject to certain requirements set forth in Order No. 20-8500-020 because the evolving nature of the public health emergency will permit the resumption of jury trials in a manner that is consistent with the latest precautionary measures recommended by public health officials for reopening New Mexico in a safe and gradual manner that is based on the local circumstances and available resources in each judicial district;

WHEREAS, trial settings often lead to last-minute plea agreements in criminal cases and settlement agreements in civil cases after jurors, witnesses, and court personnel have been called into the courthouse for an anticipated trial that is canceled on very short notice;

WHEREAS, the last-minute cancellation of trials always results in an

expenditure of resources that could have been avoided if the parties had reached a timely plea or settlement agreement;

WHEREAS, during the current public health emergency, the last-minute cancellation of scheduled trials because of untimely plea and settlement agreements also would result in the unnecessary gathering of jurors, witnesses, and court personnel in anticipation of a trial that does not occur at a time when the New Mexico Judiciary is committed to limiting gatherings in courthouses to only those needed to perform essential justice services;

WHEREAS, jury and bench trials are an essential component of our justice system, but jurors, witnesses, and court personnel should only be required to gather to provide this essential justice service when a trial is assured to occur as scheduled; and

WHEREAS, in light of the foregoing, and the Court wishing to eliminate the unnecessary cancellation of trials due to last-minute plea and settlement agreements and being sufficiently advised, Chief Justice Judith K. Nakamura, Justice Barbara J. Vigil, Justice Michael E. Vigil, Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

NOW, THEREFORE, IT IS ORDERED that, in criminal and civil

proceedings in which a jury or bench trial has been scheduled by a district, magistrate, or metropolitan court, a plea agreement or a settlement agreement between the parties that would eliminate the need for a trial shall be submitted for the court's consideration no later than five (5) business days before the scheduled date for jury selection or commencement of a bench trial;

IT IS FURTHER ORDERED that a request for the court to approve an untimely plea agreement or settlement agreement submitted less than five (5) business days before the scheduled jury selection or bench trial date shall not be granted except upon a written finding by the judge of extraordinary circumstances that excuse the untimely submission of the agreement. If the court denies a request to accept an untimely plea agreement or settlement agreement, the case shall proceed to trial on the scheduled date;

IT IS FURTHER ORDERED that, notwithstanding the denial of a request to accept an untimely plea agreement in a criminal case, a defendant may elect to plead guilty to all charges leaving full sentencing discretion with the court or the state may elect to dismiss all charges with prejudice any time before or during trial;

IT IS FURTHER ORDERED that the provisions of this order shall not apply to the plea deadline provisions in local Rule LR2-308 NMRA;

IT IS FURTHER ORDERED that this order shall be effective for all cases in which a jury selection or bench trial is scheduled to commence on or after July 1, 2020; and

IT IS FURTHER ORDERED that this order shall remain in effect until amended or withdrawn by future order of this Court.

IT IS SO ORDERED.

WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 16th day of June, 2020.

Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico