

Collegiality/Court Relations in a Time of Consolidation



Moderator:

*Justice Gary Clingman (Ret.)
New Mexico Supreme Court*

Panel:

*Judge Manuel Arrieta, Third Judicial District Court
Judge Conrad Perea, Third Judicial District Court*

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

2
3 **April 12, 2019**

4
5 **NO. 19-8500-001**

6
7 **IN THE MATTER OF THE CONSOLIDATION**
8 **OF ADMINISTRATIVE FUNCTIONS OF THE**
9 **DISTRICT AND MAGISTRATE COURTS**

10
11 **ORDER**

12 WHEREAS, the Chief Justice convened the New Mexico Judiciary
13 Leadership Summit in April 2018 to explore initiatives for improving efficient and
14 effective service to the public by the New Mexico Judiciary;

15 WHEREAS, among the initiatives identified at the Leadership Summit for
16 further consideration was the consolidation of administrative functions of the
17 district and magistrate courts within each judicial district in New Mexico;

18 WHEREAS, the New Mexico Judiciary is comprised of thirteen judicial
19 districts, with all but the Second Judicial District having one or more district and
20 magistrate courts as set forth by law;

21 WHEREAS, this Court is responsible for the superintending control of all
22 state courts in New Mexico in accordance with Article VI, Section 3 of the New
23 Mexico Constitution, which includes the district and magistrate courts in each
24 judicial district;

1 WHEREAS, the chief judge of the district court in each judicial district is
2 responsible for the superintending control of all inferior courts within the judicial
3 district;

4 WHEREAS, the Administrative Office of the Courts is also responsible for
5 assisting with the statewide administration and fiscal oversight of the magistrate
6 courts as provided by law;

7 WHEREAS, following the New Mexico Judiciary Leadership Summit, the
8 Chief Judges Council and Court Executive Officers Council recommended a pilot
9 project in the Twelfth Judicial District for consolidating administrative functions
10 of the district courts and magistrate courts within that judicial district, which this
11 Court approved in June 2018, with the Ninth, Sixth, Third, and Eleventh Judicial
12 Districts subsequently joining the pilot project on December 10, 2018, January 1,
13 2019, February 1, 2019, and April 1, 2019, respectively;

14 WHEREAS, in conjunction with the pilot projects in the Twelfth, Ninth,
15 Sixth, Third, and Eleventh Judicial Districts, this Court directed the Chief Judges
16 Council, Court Executive Officers Council, and Administrative Office of the Court
17 to develop a set of recommendations for the statewide implementation of the
18 administrative consolidation of the district and magistrate courts in each judicial
19 district;

20 WHEREAS, the Chief Judges Council, Court Executive Officers Council,
21 Administrative Office of the Courts having collaborated to present this Court with

1 a set of recommendations for implementing the statewide administrative
2 consolidation of the district and magistrate courts in each judicial district, and the
3 Court having considered said recommendations and being sufficiently advised,
4 Chief Justice Judith K. Nakamura, Justice Barbara J. Vigil, Justice Michael E.
5 Vigil, Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

6 NOW, THEREFORE, IT IS ORDERED that the administrative functions of
7 all district and magistrate courts shall be consolidated statewide, by judicial
8 district, in accordance with the following schedule:

- 9 1. The consolidation of the district and magistrate courts in the Twelfth, Ninth,
10 Sixth, Third, and Eleventh Judicial Districts shall continue in accordance
11 with the terms of this order; and
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- 13 2. The consolidation of the district and magistrate courts in the First, Fourth,
14 Fifth, Seventh, Eighth, Tenth, and Thirteenth Judicial Districts shall
15 commence no later than July 1, 2019;
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17 IT IS FURTHER ORDERED that the chief judges of the district courts shall
18 exercise administrative authority over the district and magistrate courts in their
19 respective judicial districts in accordance with their powers of superintending
20 control for their respective judicial districts under law and as required by this
21 order;

22 IT IS FURTHER ORDERED that the budget requests and operating budgets
23 for each judicial district, beginning for Fiscal Year 2020, shall include
24 appropriations for magistrate court salaries and operating expenses to support the
25 consolidated administration required by this order;

1 IT IS FURTHER ORDERED that the Administrative Office of the Courts
2 shall continue to provide administrative assistance and fiscal oversight as directed
3 by this Court in support of the consolidated administration required by this order
4 and shall continue to request appropriations in its annual budget request for those
5 services that it will continue to provide in support of the consolidated operation of
6 the district and magistrate courts;

7 IT IS FURTHER ORDERED that, when the director of the Administrative
8 Office of the Courts is required to designate a presiding magistrate under NMSA
9 1978, Section 35-1-15, the director shall prescribe duties for any designated
10 presiding magistrate in consultation with the chief judge of the district court in that
11 judicial district, and the duties, if any, of a presiding magistrate shall be established
12 in writing by the chief judge of the district court for the judicial district in which
13 the magistrate court is located;

14 IT IS FURTHER ORDERED that the selection of the chief judge and court
15 executive officer for the district court in each judicial district shall proceed in
16 accordance with the preexisting procedures, rules, and laws governing those
17 selections, provided that consultation with magistrate judges is encouraged;

18 IT IS FURTHER ORDERED that any complaints or other concerns
19 regarding operations in a judicial district, whether arising in the district or
20 magistrate court, shall be brought to the attention of the chief judge of district court
21 for the judicial district in accordance with any process required by the chief judge;

1 IT IS FURTHER ORDERED that all participation by magistrate judges and
2 staff at a legislative session shall be coordinated with the chief judge of the judicial
3 district in which the magistrate judges and staff are located and each district court
4 shall be responsible for the payment of expenses for travel to the session by
5 magistrate judges or staff and shall be responsible for ensuring coverage in the
6 magistrate courts in the judicial district while magistrate judges and staff are absent
7 to participate in a legislative session;

8 IT IS FURTHER ORDERED that pending the amendment of Rules 2-103,
9 6-103, and 23-109 NMRA, upon receipt by the director of the Administrative
10 Office of the Courts of any request to adopt, amend, or withdraw a local rule for a
11 magistrate court, the request shall be forwarded by the director for consideration
12 by the chief judge of the district court for the judicial district in which the
13 magistrate court is located, and the director shall only adopt, amend, or withdraw
14 local rules as directed by the chief judge of the district court for the judicial district
15 in which the local magistrate court rule request would apply;

16 IT IS FURTHER ORDERED that, no later than September 1, 2019, or sixty
17 (60) days from the date of this order in those districts already consolidated under
18 this order, whichever is sooner, the chief judge of the district court for the judicial
19 district shall submit to the Supreme Court a copy of all local rules for magistrate
20 courts in the judicial district that were in effect prior to consolidation along with a
21 report recommending to the Supreme Court which magistrate local rules should

1 remain in effect without change, which should be amended, and which should be
2 withdrawn;

3 IT IS FURTHER ORDERED that director of the Administrative Office of
4 the Courts shall amend the New Mexico Judicial Branch Administrative Authority,
5 Appointing Authority, & At-Will List Policy, which shall include amendment of
6 the definition of "Administrative Authority" in Subsection 3A(1), to make clear
7 that the administrative authority of the district court chief judge of a judicial
8 district court extends to all magistrate courts within the judicial district;

9 IT IS FURTHER ORDERED that the director of the Administrative Office
10 of the Courts shall amend the New Mexico Judicial Branch Inclement Weather
11 Policy, which shall include the amendment of Subsection 6C and the deletion of
12 Subsection 6E of the policy, to make clear that the authority of the district court
13 chief judge of a judicial district to determine abbreviated schedules and court
14 closures under the policy extends to all magistrate courts in the judicial district;

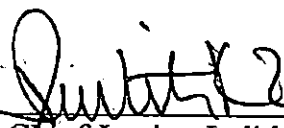
15 IT IS FURTHER ORDERED that Supreme Court Administrative Order No.
16 09-8200, *In the Matter of Superintending Control of Magistrate Courts*, filed on
17 September 16, 2009, which approved the Magistrate Court Policy Directives, as
18 revised by this Court on that date, shall be rescinded and replaced with a new set of
19 policy directives approved by concurrently issued Supreme Court Administrative
20 Order No. 19-8500-002;

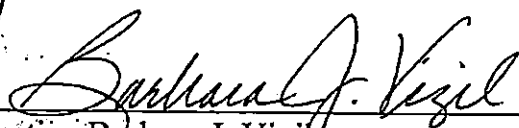
1 IT IS FURTHER ORDERED that Supreme Court Administrative Order No.
2 05-8500, *In the Matter of the Effective Administration of the Magistrate Court*
3 *System in New Mexico*, filed on June 14, 2005, shall be rescinded and replaced by
4 concurrently issued Supreme Court Administrative Order No. 19-8500-003; and


5 IT IS FURTHER ORDERED that Rules 2-103, 6-103, and 23-109 NMRA
6 shall be amended by concurrently issued Supreme Court Administrative Order No.
7 19-8300-003 to conform to the consolidation requirements and processes set forth
8 in this order.

9 IT IS SO ORDERED.


10 DONE at Santa Fe, New Mexico, this 12th day of April, 2019.

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15 Chief Justice Judith K. Nakamura

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18 Justice Barbara J. Vigil

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22 Justice Michael E. Vigil

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26 Justice C. Shannon Bacon

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30 Justice David K. Thomson

NMRA, Rule 23-109

RULE 23-109. CHIEF JUDGES

A. Selection; term; vacancies for unexpired terms.

(1) Each judicial district and each metropolitan court shall have a chief judge. The chief judge of a judicial district or metropolitan court shall be selected in the manner Provided by the constitution by a majority of the sitting judges in that judicial district or metropolitan court who have been duly appointed or elected and taken the oath of office. A chief judge may be re-elected to serve successive terms. In the event of a tie vote, the senior judge among those who are tied shall be the chief judge.

(2) Effective December 31, 2014, upon the expiration of the term of a sitting chief judge in a judicial district or metropolitan court, the next election for the chief judge of that judicial district or metropolitan court shall be for a term of at least two (2) years but no more than three (3) years, with said term to expire on May 15. Thereafter, every three (3) years, the election of a chief judge for that judicial district or metropolitan court shall take place on or before April 15 for a three (3)-year term to begin on May 15.

(3) In the event of a vacancy before the expiration of a term for a chief judge, the vacancy shall be filled as follows:

(a) If the remainder of the term of the vacancy is less than one (1) year, an election shall be held to elect a new chief judge to serve the remainder of the term plus a new three (3)-year term;

(b) If the remainder of the term of the vacancy is more than one (1) year, an election shall be held to elect a new chief judge to serve the remainder of the term and, at the expiration of that term, an election shall be held to elect a chief judge for a new three (3)-year term; and

(c) The Chief Justice may appoint an acting chief judge for a judicial district or metropolitan court until a new chief judge is elected to serve the remainder of an unexpired term under this subparagraph.

B. Duties and Responsibilities. The chief judge of each judicial district and each metropolitan court district shall have the administrative responsibility for that judicial district or metropolitan court and shall

(1) administer established policy concerning the court's internal operations;

- (2) call and preside over regular and special meetings of the judges;
- (3) appoint standing and special committees as may be advisable to assist in the proper performance of the duties and functions of the court;
- (4) designate one of the judges to act during the chief judge's temporary absence or inability to act;
- (5) exercise responsibility as the administrative authority in accordance with the provisions of law and the New Mexico Judicial Branch Personnel Rules and ensure the enforcement of those rules;
- (6) exercise general supervision, coordination, and direction of business of the court;
- (7) supervise performance of the court's administrative office;
- (8) supervise court finances, including financial planning and preparation, and presentation of court budgets;
- (9) coordinate the use of space, equipment, and facilities of the court;
- (10) assign, reassign, or consolidate cases among the several judges as equitably as possible. Except with respect to specialty courts consisting of a single judge, cases shall be assigned by random selection designed so that each judge will receive substantially the same number and type of cases. If a judge is unable to administer the cases assigned to such judge within a reasonable time, or if there are other justifiable reasons, the chief judge, in consultation with the other judges, may reassign cases to other judges within the district except for cases previously assigned by the Chief Justice as an out-of-district designation;
- (11) have published for general distribution copies of a current calendar setting forth the judicial assignments of the judges, the times and places assigned for hearing court matters, and any special calendaring requirement deemed necessary by the chief judge;
- (12) prepare an orderly plan of vacations for all court personnel, and for attendance at schools, conferences, and workshops for judges and other court personnel;
- (13) provide an orientation program for new judges as soon as possible after their election or appointment;
- (14) provide for liaison between the court and other governmental or civic agencies;
- (15) when appropriate, meet with or designate a judge or judges to meet with committees of the bench, bar, news media, or community to review problems and to promote understanding of the

administration of justice;

(16) oversee juror management;

(17) implement and monitor compliance with all policies, rules, and regulations issued by the Supreme Court;

(18) perform such other administrative and substantive functions as are necessary for the efficient operations of the court on a day-to-day basis.

C. Reporting. The chief judge shall advise the Chief Justice of the failure or refusal of any judge of such court to comply with the Code of Judicial Conduct or an established policy, rule, or regulation of such court or the Supreme Court.

[Adopted effective June 1, 1998. Amended effective July 1, 1990; April 23, 2014; Dec. 31, 2014.]

ORG CHART

