



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT

NAN G. NASH
CHIEF JUDGE

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District Attorney Raul Torres
Office of the District Attorney
Albuquerque, NM

VIA EMAIL Delivery

June 29, 2017

Re: Announcement of New Special CMO Preliminary Hearing Calendar

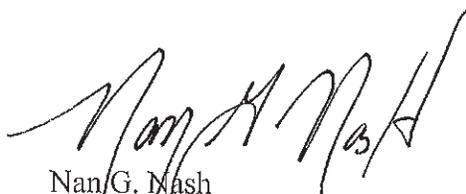
Dear DA Torrez;

In your recent Report on the Impact of the Case Management Order on the Bernalillo County Criminal Justice System ("Report"), you represent that "hundreds" of cases have been dismissed by the Second Judicial District Court ("SJDC") for technical violations of the Rule LR2-308 NMRA, commonly referred to as the Case Management Order ("CMO"). You blame the SJDC and the CMO for the backlog of an alleged 8,000 cases, and ultimately for a rise in crime in Albuquerque. While we strongly dispute your assertion and in fact have statistics that tell a different story about your office's dismissal of hundreds of cases and your inability to secure convictions in the cases you do take to trial, we do agree that cases should be resolved on their merits.

We are also concerned about the alleged 8,000 felony cases that you allege are pending due to CMO issues. Again we strongly dispute your claim that this backlog is primarily due to the CMO. A simple review of the data regarding felony arrests in any given year and felony cases filed reflects that the District Attorney's office always has several thousand cases awaiting prosecution. This has been the case since long before the CMO. Moreover, more than six hundred cases have been dismissed by your office in this year alone and less than twenty of those cases reflect a CMO related reason for your dismissal. We would agree however that some of the 8,000 cases are cases that were dismissed for CMO violations.

You have represented to the public that you want to get these cases refiled and move forward with the prosecution. We agree with this goal. To assist you in those efforts we are establishing a special preliminary CMO hearing calendar to help facilitate moving these cases forward. Beginning the week of July 16, 2017, the Court will add two additional weekly preliminary hearing calendars that your office may fill. The calendars will be limited to cases that the court has dismissed because of your office's failure to comply with the CMO. All other cases shall be brought on the regular preliminary hearing calendars or grand jury days already provided to your office. The first CMO preliminary hearing calendar will be scheduled for Friday, July 21, 2017. We will announce a full schedule within the next week and provide contact details for scheduling. We will also look to double the special CMO preliminary hearing calendar in the future if your office fully utilizes these special CMO preliminary calendar days initially provided. Your office should have no problems complying with the CMO deadlines this time around as this will be at least the second time the case has been in the system, and thus your office should have had plenty of time to collect evidence, locate witnesses, and investigate.

We will be issuing a detailed response to your Report through the CJCC but, as we stated at the CJCC meeting, we stand ready to work with you whenever possible. You have told us and the public that you are ready to get these cases refiled and moving. Let's get moving together to accomplish this goal. Please let us know if you have any questions regarding this new CMO preliminary hearing calendar.



Nan G. Nash
Chief Judge

Sincerely,



Charles W. Brown
Presiding Criminal Judge

cc: Richard Pugh, District Defender
Judges of the Second Judicial District Court
Members of the Bernalillo County Criminal Justice Coordinating Council