

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**
2 **AND THE ELEVENTH JUDICIAL DISTRICT COURT**

3 **IN THE MATTER OF THE PILOT**
4 **PROJECT FOR CRIMINAL APPEALS,**

5 **Joint Miscellaneous Order**
6 **No. 2019-002**

ADMINISTRATIVE ORDER FOR APPEALS IN CRIMINAL CASES
 INVOLVING THE LAW OFFICES OF THE PUBLIC DEFENDER,
 FROM THE ELEVENTH JUDICIAL DISTRICT COURT

7 This matter has come before the Court of Appeals and the Eleventh Judicial
8 District Court, based on the creation of a pilot project focused on accelerating the
9 processing of criminal appellate cases, from the Eleventh Judicial District Court, in
10 which the defendant is represented by the Law Offices of the Public Defender,
11 effective for those final orders and judgments filed in a criminal case in the Eleventh
12 Judicial District Court on or after October 1, 2019. We issue this order to set forth
13 the procedures for the pilot project, with the understanding that if the Court of
14 Appeals and Supreme Court ultimately determine that the pilot project should be
15 made permanent and expanded statewide, new rules will be promulgated that
16 encompass the process. This order applies until such determination has been made
17 and such rules have been promulgated or until further order of this Court.

18 **Notice of Appeal and Record Proper.** Following the entry of a final order
19 or judgment in a criminal case involving the Law Offices of the Public Defender, in

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1 the Eleventh Judicial District Court, an aggrieved party may initiate an appeal by
2 filing a notice of appeal in the District Court within thirty (30) days of the order or
3 judgment being entered. Upon the filing of the notice of appeal, appellate counsel
4 for the appellant shall file a limited entry of appearance in the district court case, for
5 the purpose of obtaining access to the record proper. Within ten (10) days of the
6 filing of the notice of appeal, the district court shall: (1) file the record proper in the
7 district court case; (2) place the record proper in the Court of Appeals (COA) record
8 proper "queue" in Odyssey; and (3) send any audio transcripts, with logs, and
9 exhibits to the COA. Counsel for the appellant may check out the audio files and
10 exhibits from the COA office in Santa Fe for the purpose of preparing the brief in
11 chief (BIC). Cases will be identified by district court case number until the BIC is
12 filed or the case is otherwise opened in the COA. Audio transcripts and exhibits must
13 be returned upon the filing of the BIC.

14 **Brief-in-Chief.** Within ninety (90) days from the filing of the notice of appeal,
15 counsel for the appellant shall file the BIC in the COA. The COA will then open a
16 case, assign an appellate case number, and file a notice with the district court that
17 the BIC has been filed. Extensions of time to file the BIC are strongly discouraged
18 and will not be granted if they are based on press of business. The BIC shall comply
19 with Rule 12-318 NMRA and shall also contain the following: (1) the title and date
20 of the judgment or order sought to be reviewed and a statement showing that the

1 appeal was timely filed; (2) a reference to all related or prior appeals of which the
2 party is aware, including an appropriate citation, if any; and (3) a copy of the order
3 appointing appellate counsel, where applicable. The COA will make an initial case-
4 track assignment based on the information contained in the BIC.

5 **Answer Brief.** Cases that the COA determines may be appropriately affirmed
6 without the need for an answer brief (AB) from the appellee will be placed on Track
7 1. Cases that require an AB will be placed on Track 2 or Track 3.

8 If the COA determines that an AB is necessary, a Notice of [Track 2 or Track
9 3] Assignment will be issued by the Court. The Notice of Track Assignment will
10 contain a request that an AB be filed. The appellee shall have forty-five (45) days
11 from the entry of the Notice of Track Assignment to file an AB with the COA, in
12 accordance with Rules 12-308 and 12-318.

13 **Reply Brief.** If the appellant wishes to file a reply brief (RB), it shall be filed
14 with the COA within fifteen (15) days of the filing of the AB, and in accordance
15 with Rules 12-308 and 12-318. If the appellant decides not to file an RB, the
16 appellant shall file a Notice of No Reply Brief upon making the determination not
17 to file, but in any event, no later than fifteen (15) days after the filing of the AB.

18 **COA Tracks.** If a case has been placed on Track 1, the COA will issue an
19 opinion resolving the case in the normal course of its operations. If a case has been
20 placed on Track 2, after the AB has been filed and an RB or Notice of No Reply

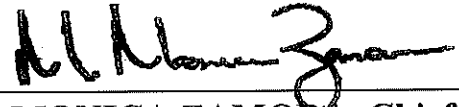
1 Brief has been filed, the COA will either issue an opinion resolving the case in the
2 normal course of its operations or assign the case to Track 3. If the case has been
3 assigned to Track 3, either initially or after full briefing has been completed, the case
4 will be placed on the COA Ready List once briefing is complete and eventually
5 submitted to a panel in accordance with the COA's normal course of operations.
6 Once the case is assigned to a panel of judges, the COA may order supplemental
7 briefing or oral argument, in accordance with the Rules of Appellate Procedure.
8 Otherwise, the COA will proceed with the issuance of an opinion on the existing
9 briefing and in the normal course of its operations.

10 **District Court Follow-Up.** To ensure the timely processing of appeals,
11 beginning 105 days after the first notice of appeal has been filed pursuant to this
12 order, every fifteen (15) days, the Eleventh Judicial District Court shall forward to
13 the COA a list of all criminal cases in which a notice of appeal has been filed, but a
14 notice of filing of the BIC has not been filed by the COA with the district court,
15 within ninety (90) days after the filing of such notice of appeal.

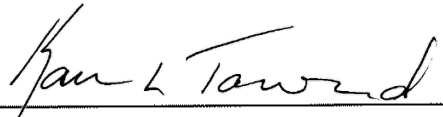
16 **IT IS THEREFORE ORDERED** that parties appealing final orders or
17 judgments in criminal cases involving the Law Offices of the Public Defender, in
18 the Eleventh Judicial District Court, entered on or after October 1, 2019, follow the
19 procedures articulated in this order until the Court of Appeals and Supreme Court

1 determine whether the pilot project should be made permanent and expanded
2 statewide or until further order of this Court ceasing the program.

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**M. MONICA ZAMORA, Chief Judge
Court of Appeals**



**KAREN L. TOWNSEND, Chief Judge
Eleventh Judicial District Court**