

1 the District Court, an aggrieved party may initiate an appeal by filing a notice of
2 appeal in the District Court within thirty (30) days of the order or judgment being
3 entered.

4 Upon the filing of the notice of appeal, appellate counsel for the appellant
5 shall file a limited entry of appearance in the district court case, for the purpose of
6 obtaining access to the record proper. Within ten (10) days of the filing of the notice
7 of appeal, the District Court shall: (1) file the record proper in the district court case
8 and (2) send all audio transcripts and logs, in triplicate, as well as documentary
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, logs and exhibits
13 must 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, file a notice with the District Court that the
17 BIC has been filed and will cause the record proper to be docketing in the COA.
18 Extensions of time to file the BIC are strongly discouraged and will not be granted
19 if they are based on press of business. The BIC shall comply with Rule 12-318
20 NMRA and shall also contain the following: (1) the title and date of the judgment or

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

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

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

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

19 **COA Tracks.** If a case has been placed on Track 1, the COA will issue an
20 opinion resolving the case in the normal course of its operations. If a case has been

1 placed on Track 2, after the AB has been filed and an RB or Notice of No Reply
2 Brief has been filed, the COA will either issue an opinion resolving the case in the
3 normal course of its operations or assign the case to Track 3. If the case has been
4 assigned to Track 3, either initially or after full briefing has been completed, the case
5 will be placed on the COA Ready List once briefing is complete and eventually
6 submitted to a panel in accordance with the COA's normal course of operations.
7 Once the case is assigned to a panel of judges, the COA may order supplemental
8 briefing or oral argument, in accordance with the Rules of Appellate Procedure.
9 Otherwise, the COA will proceed with the issuance of an opinion on the existing
10 briefing and in the normal course of its operations.

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

17 **IT IS THEREFORE ORDERED** that parties appealing final orders or
18 judgments in criminal cases involving the Law Offices of the Public Defender, in
19 the District Court, entered on or after September 1, 2021, follow the procedures
20 articulated in this order until the COA and Supreme Court determine whether the

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

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**J. MILES HANISEE, Chief Judge
Court of Appeals**



**ANGIE K. SCHNEIDER, Chief Judge
Twelfth Judicial District Court**