IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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Mark Reynolds

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No. A-1-CA-41682

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

EDGAR GUZMAN,

Defendant-Appellee.

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
T. Glenn Ellington, District Court Judge

Raúl Torrez, Attorney General
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for Appellant

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for Appellee

OPINION

WRAY, Judge.

{1} Our Supreme Court has established a legal framework for district courts to apply in order to impose "extreme" sanctions, like exclusion of a witness or dismissal. *State v. Harper*, 2011-NMSC-044, ¶¶ 16, 27, 150 N.M. 745, 266 P.3d 25; *State v. Le Mier*, 2017-NMSC-017, ¶ 15, 394 P.3d 959. District courts must consider culpability, prejudice, and the availability of lesser sanctions (the *Harper*/*Le Mier* factors) and must explain the reasoning supporting the sanction imposed. *Le Mier*, 2017-NMSC-017, ¶¶ 15, 20. On appeal, the State argues that the district court's decision to exclude several late-disclosed witnesses was an abuse of discretion because (1) the district court did not consider or explain its evaluation of lesser sanctions on the record as required by *Harper* and *Le Mier*; and (2) the district court improperly weighed and applied the *Harper/Le Mier* factors. We affirm the district court's exercise of discretion to impose an extreme sanction because (1) the record demonstrates that the district court considered the *Harper*/*Le Mier* factors and explained its reasoning; and (2) the sanction is not contrary to the facts or circumstances of the case.

BACKGROUND

{2} While on electronic monitoring (EM), Defendant was identified as a suspect in a burglary. Law enforcement's investigation correlated Defendant's EM location

data with a series of burglaries that had been committed by an unknown perpetrator. On June 7, 2022, Defendant was charged with nineteen counts, including larceny, nonresidential burglary, and breaking and entering. Defendant was detained pretrial.

{3} On June 13, 2022, the district court entered a scheduling order, which required the State to comply with Rule 5-501 NMRA. Most relevantly, Rule 5-501(A)(5) requires the State to

> disclose or make available to the defendant . . . a written list of the names and addresses of all witnesses which the prosecutor intends to call at the trial, identifying any witnesses that will provide expert testimony and indicating the subject area in which they will testify, together with any statement made by the witness and any record of prior convictions of any such witness which is within the knowledge of the prosecutor.

The State filed a witness list on June 24, 2022, which identified thirty-one specific witnesses and five catch-all categories, including "[a]ny witness not named herein but mentioned in any police report made pursuant to this case."

{4} Trial was reset multiple times. The original trial date was for February 2023, which was continued to April 2023. At a status hearing in March 2023, Defendant noted that "the GPS or electronic monitoring data seems like it's been lost or destroyed" and requested a continuance to "file the appropriate motion." The district court reset trial for May 2023 and after that, reset trial twice more. Before the September 2023 trial setting, on August 16, 2023, Defendant filed a motion to exclude "any testimony of any witness not properly listed pursuant to . . . Rule 5-

501 and [Rule] 5-505" NMRA, which governs the parties' continuing duty to disclose witnesses. The State did not respond.

{5} The district court granted the motion at an October 2, 2023 hearing, but did not preclude the State from filing a supplemental witness list. At that point, jury selection was set for November 14, 2023, and the district court ordered the State to identify any supplemental witnesses by October 11, 2023. The State did not identify any additional witnesses within the deadline, and on October 11, 2023, the parties indicated that they were ready for trial.

{6} On October 20, 2023, Defendant filed a motion in limine to exclude any evidence related to EM because the State had not identified a foundational witness. Substitute counsel for the State entered an appearance the following business day. This marked the fourth entry of appearance on behalf of the State.[1] After this fourth substitution of counsel, the State quickly filed a supplemental witness list naming the records custodian for the EM records (EMR custodian). Defendant moved to exclude the EMR custodian based on the State's failure to timely disclose the witness by October 11, 2023. The State responded to both motions. In response to Defendant's motion in limine, the State (1) argued that the police report gave Defendant "ample notice that the State intended to introduce evidence of electronic

[1]On appeal, the State notes that one of these entries occurred within two days of the filing of charges and that the Defendant also had changes in counsel.

monitoring data"; and (2) informed the district court that a pretrial interview had been scheduled with the witness for November 8, 2023. In response to Defendant's motion to exclude the EMR custodian, the State declared that (1) Defendant had not been prejudiced, (2) the omission was unintentional, (3) the name of the EMR custodian had been in the police report,[2] and (4) exclusion would be a disproportionate sanction to the infraction. The State proposed "an oral reprimand as an appropriate remedy."

{7} The day before jury selection, Defendant filed a "Conditional Motion to Sever." The next day, the State filed a second supplemental witness list that identified five additional witnesses. The same day, the district court vacated jury selection for the trial because of building maintenance issues, reset the jury trial for December 27, 2023, and heard Defendant's motions.

{8} At the hearing, Defendant noted that the witness identification issue was "clearly a *Le Mier* situation" and that decisions had been made "about trial preparations." Although Defendant did not want a severance, he explained that he had stated that he was ready for trial based on the "understanding of the evidence of what we expected the State to be able to present at trial, based on the fact that

[2]The police report does not appear to be in our record, and on appeal, the State argues that the EMR custodian was "named indirectly through the police report category." From this, we conclude that EM evidence was referenced in the police report but not the identity of an EMR custodian.

[defense counsel] was actually urging them to look at their witness list to make a decision about what [defense counsel] need[ed] to do." If the district court did not grant the motion to exclude the EMR custodian, Defendant stated that he would pursue the motion to sever the seventeen counts that were reliant on EM evidence from the two that were not.

{9} The district court granted Defendant's motion to exclude. In the written order, the district court found that as of Defendant's August 2023 motion, the State was "on notice of the deficiencies of its witness list"; the deadline to identify additional witnesses had been extended to October 11, 2023; and the State did not identify additional witnesses by the new deadline even though the absence of the EMR custodian "was a material defect in the State's ability to proceed with its case." The incomplete witness list both "prejudiced the defense's ability to prepare for trial, all the while [Defendant] sat in custody awaiting trial," and put Defendant in a position where he "had to forego a motion to sever counts based on other legal theories." The order states that exclusion of the EMR custodian was "the appropriate sanction for the material harm caused by the State's failure to supplement its witness list by the [c]ourt's deadline."

{10} The State filed a motion to reconsider the district court's exclusion of the EMR custodian, and Defendant filed a motion to exclude the State's second supplemental witness list. The State again noted that Defendant had conducted an

interview of the EMR custodian on November 8, 2023, that the identity of the witness was not intentionally withheld, and that the centrality of the EM evidence was always apparent. The prejudice to Defendant, the State argued, was mitigated by the interview and by the resetting of trial to late December. The State also suggested other, lesser sanctions: "oral or written admonishment, monetary sanction, release of Defendant from custody, or dismissal"—presumably dismissal without prejudice. At the hearing, the State noted that the exclusion of the EMR custodian was "an extreme sanction, because the State did not attempt to hide this witness" and asked for "a lesser sanction, which [is] available." The district court denied the State's motion to reconsider and granted Defendant's motion to exclude the State's second supplemental witness list. The written order noted that the State's supplemental witness list had been filed more than sixteen months after the criminal information, the State's charging decisions complicated the case, multiple attorneys had represented the State, and Defendant had remained in custody. The State appealed.

DISCUSSION

{11} The State argues that the district court abused its discretion by (1) not considering the third *Harper*/*Le Mier* factor on the record or explaining its decision; and (2) incorrectly applying the law to the facts by imposing the sanction of exclusion. *See State v. Ferry*, 2018-NMSC-004, ¶ 2, 409 P.3d 918 (explaining that

the district court's discretionary decisions are first evaluated according to whether the district court applied the correct legal principles and second whether those principles were properly applied). Before proceeding further, we note that the State asserts that the district court erroneously excluded both the EMR custodian and the witnesses listed on the second supplemental witness list. The State's arguments, however, focus solely on the EMR custodian and do not address the second supplemental witness list. We therefore focus our own analysis on the EMR custodian. To do that, we consider (1) whether the district court used the correct analysis under *Harper*/*Le Mier*; and (2) whether the district court's application of the *Harper/Le Mier* factors properly resulted in the exclusion of the EMR custodian.

I. The District Court Applied the *Harper/Le Mier* Framework and Adequately Explained Its Decision to Exclude the State's Witnesses

{12} The State maintains that the correct legal principles were not applied because the district court (1) did not consider lesser sanctions, and (2) failed to explain its decision to exclude the witness. The district court is required to "evaluate the considerations identified in *Harper*—culpability, prejudice, and lesser sanctions" and "must explain [the] decision to exclude or not to exclude a witness within" that framework. *Le Mier*, 2017-NMSC-017, ¶ 20; *cf. State v. Lente*, 2005-NMCA-111, ¶ 3, 138 N.M. 312, 119 P.3d 737 ("The threshold question of whether the trial court applied the correct evidentiary rule or standard is subject to de novo review on appeal." (alteration, internal quotation marks, and citation omitted). The district

court did not refer explicitly to *Harper* or *Le Mier*. For this reason, we turn to the parties' arguments and the record of the district court's reasoning in order to evaluate the State's contention that the district court wholly failed to consider the third *Harper* factor or explain the reasons for the sanction that was imposed. This record review resolves both threshold questions and shows that the district court considered all three *Harper/Le Mier* factors and adequately explained its reasoning.

{13} Both parties raised *Le Mier* either in briefing and/or in argument and the district court responded to the parties' arguments. In briefing, the State requested multiple alternative sanctions, and at the hearing, Defendant indicated that if the EMR custodian was not excluded, he would seek severance as an alternate remedy. To provide the entire context and to avoid interpretation by summary, we set forth nearly the entire oral explanation that the district court provided at the hearing on Defendant's motion to exclude. The court stated:

> I won't go through the history again because we've already had that as part of this discussion. The State was placed on notice of a potential problem in its presentation by the motion filed by [Defendant] in August. We heard—we heard that motion at that point in time that the State—the court denied that, but set a deadline. *The harm to* [*Defendant*] *is not just additional time sitting in jail, it's the ability to prepare for the trial.* It was clear from the State's position, and who had identified in its witness list, who the State intended to call. The vagueness of the State's statement is other people that are noticed in—other people that are identified somehow in a police report or something else.
>
> The court gave the State to the opportunity to clarify and to specify who those individuals might be and that did not occur. The defense is left in

> a position where it is—believes that there is a material defect in the State's ability to prosecute several of the counts against [Defendant] and prepares accordingly. The State announced that it was ready for trial again and that—then subsequently filed a witness list, really on the verge of this current setting. And we've had several settings in this case to add the name of a witness. *The court finds that there is material harm to* [*Defendant*] *in that sequence of events.*
>
> . . . .
>
> And just to supplement the court's findings, *the lack of attention by the State placed the defense in a position where it bypassed or* [*had to*] *forgo this opportunity to file a motion to sever these counts based on other legal theories*. Namely that there were multiple dates and times that the alleged crimes took place and that they may not have any relationship to each other, other than potentially the discovery of the identification through the Santa Fe County electronic monitoring program, of [Defendant] being involved in these other incidents. That is exactly the type of issue they're—I'm not addressing the severance argument that—at this hearing, but that is exactly the type of issue in preparation for a nineteen count information that requires substantial preparation. If there's going to be a bifurcated trial[] or if there's going to be argument that somehow they should all remain together in a single—in a single prosecution.

At the hearing on the motion to reconsider, the district court provided this additional explanation:

> *This has been a poorly managed prosecution.* There were decisions made early on to prosecute multiple alleged burglaries altogether, even though they're different dates and times. And then in the discovery process—the complexity of that it appears has caused additional problems. Also a rotation in representation for the State. I show that there's been four prosecutors in this case since its inception.
>
> [Defendant] has been in custody for, I believe, almost all of that time. The two remaining charges, standing alone, are fairly straightforward. They don't appear to be complex. *The complexity in this case came*

from the charging decisions and the prosecution decisions and then the lack of discovery.

{14} This record, together with the written rulings, demonstrates that the district court (1) considered and rejected the State's proposed lesser sanctions; and (2) explained the reasons for the exclusion of the witness. The State requested lesser sanctions both in writing and at the hearings. At the November motion hearing, the State argued that excluding the EMR custodian was "an extreme or severe sanction of last resort" that was unwarranted because the failure to identify the witness was an unintentional clerical error. The district court responded, "Why is it unwarranted?" The district court then described its view that the extension of the witness identification deadline to October 11, 2023, put the State on notice that the EMR custodian had to be identified. But until October 27, 2023, the EMR custodian was neither identified nor was "a statement made specifically that there would be a foundational witness from the [EM] program." The State's final argument before the district court's oral ruling was that witness exclusion was unwarranted. Based on this, the district court believed that an extension of time to identify witnesses had already been granted and rejected the State's proposed alternate remedies that stopped short of excluding the undisclosed witness. In its order, the district court stated that exclusion of the witness was "the appropriate sanction for the material harm caused by the State's failure to supplement its witness list by the [c]ourt's

deadline." Thus, the district court (1) considered the third *Harper/Le Mier* factor; and (2) explained its reasons for the sanction.

{15} Despite this record, the State contends reversal is required because the district court's oral and written rulings did not expressly discuss why lesser sanctions were not appropriate. While an analytical process that expressly accounts for each *Harper*/*Le Mier* factor would be helpful, in other cases, appellate courts considering this question have looked to the record to determine whether it was possible to conduct a meaningful appellate review of the district court's application of the *Harper*/*Le Mier* factors. *See Le Mier*, 2017-NMSC-017, ¶¶ 24-29; *State v. Lewis*, 2018-NMCA-019, ¶¶ 4, 12, 16, 413 P.3d 484. The type of explanation provided by the district court in the present case—describing the district court's belief that the course of the prosecution was affected by the failure to comply with court-imposed schedules or to grasp the opportunity the court gave the State to identify its witnesses—is sufficient to permit appellate courts to evaluate (1) whether the district court applied the required *Harper/Le Mier* considerations; and (2) the district court's reasoning. As our Supreme Court stated in *Le Mier*: "Whether it is proper to exclude a witness is not a simple choice easily resolved by reference to some basic judicial arithmetic. The question requires our courts to navigate an array of concerns and to exercise their discretionary power with practical wisdom and due care." 2017-NMSC-017, ¶ 20.

{16} *Le Mier* models this analysis. In *Le Mier*, our Supreme Court reviewed the record—the history of the case, its own view of the prejudice to the defendant and to the court, and, most importantly, its own evaluation of whether the Court was "persuaded that witness exclusion was the least severe sanction in light of the circumstances of this case." *Id.* ¶¶ 24-29. For that factor, the Court (1) relied on the principle that the district court need not consider every sanction, (2) examined the multiple opportunities—evident in the record—that would have permitted the state to cure its violation, and (3) assessed whether the sanction was tailored to the infraction. *Id.* ¶¶ 27-29.

{17} This Court, in *Lewis*, mirrored the analysis in *Le Mier* but with the opposite result. This Court could not discern "the district court's reasons" for dismissing the case with prejudice based on what we characterized as "an apparently unremarkable fact pattern." *Lewis*, 2018-NMCA-019, ¶ 12. In other words, the record of the discovery violation in *Lewis* appeared to be ordinary, which did not explain the severe sanction imposed, and the district court's decision referred only to prejudice and the state's ongoing duty to disclose. *Id.* ¶¶ 4, 12. The insufficiency of the record prevented proper appellate review of "the evidence and all inferences in the light most favorable to the district court's decision," and as a result, the sanction was reversed because it was not clear from the record that the district court applied the proper legal principles. *Id.* ¶ 16.

{18} In the present case, the district court's rulings and on-the-record statements are adequate to demonstrate that all three *Harper/Le Mier* factors were considered and to explain its bases for excluding the EMR custodian. We therefore conclude the district court applied the proper legal principles to exclude the State's witness. The question remains whether the sanction that the district court selected was nevertheless an abuse of discretion.

II. The District Court Did Not Abuse Its Discretion in Its Application of the *Harper/Le Mier* Factors

{19} The State maintains that the proper application of the *Harper*/*Le Mier* factors should not result in exclusion of the EMR custodian based on its view that the findings on all three *Harper*/*Le Mier* factors were unsupported. When it comes to whether the appropriate sanction was imposed, district courts "possess broad discretionary authority." *Le Mier*, 2017-NMSC-017, ¶ 22. In this context, "[a]n abuse of discretion occurs when the ruling is clearly against the logic and effect of the facts and circumstances of the case" and a district court does not "abuse[] its discretion by its ruling unless [an appellate court] can characterize it as clearly untenable or not justified by reason." *Id.* (internal quotation marks and citation omitted). With this standard in mind, we consider in turn culpability, prejudice, and the appropriateness of the sanction to evaluate whether witness exclusion was a correct outcome in the present case. *See id.* ¶ 20 (rejecting the proposition that "witness exclusion is justified only if all of the *Harper* considerations weigh in favor

of exclusion"); *Ferry*, 2018-NMSC-004, ¶ 2 (explaining that a district court decision will be affirmed if it selects "the only correct outcome" or "[i]f proper legal principles correctly applied may lead to multiple correct outcomes").

A. Culpability

{20} The State argues the culpability for the late disclosure "can only be described as a negligent failure to comply" with the district court's order to identify witnesses by October 11, 2023. The district court agreed, made no finding of intentional misconduct, and determined that the State poorly managed a complicated case and ignored an opportunity to investigate and correct an oversight regarding essential evidence. The State argues that under *Harper*, the conduct must be "especially" culpable, akin to "bad faith," and that "negligent failure to comply" with a discovery order "is not enough." To explain why we disagree with the State's stark application of *Harper* to the facts of the present case, we consider the relationship between *Harper* and *Le Mier*.

{21} *Harper* and *Le Mier* mark points on a spectrum of conduct. In *Harper*, the state made "efforts to comply with the district court's order," and the conduct therefore was "not characterized by the degree of culpability that gives rise to an exclusionary sanction." 2011-NMSC-044, ¶¶ 22, 23. To reach this conclusion, the *Harper* Court distinguished the state's nonculpable conduct from conduct in other cases that had affirmed the exclusion of a witness—cases that involved "especially

culpable" conduct, bad faith, and blocking access to evidence. *Id.* ¶¶ 17-18, 22-23. In *Le Mier*, on the other hand, the state "repeatedly failed to comply" with the district court's "clear and unambiguous orders," and exclusion of the witness was justified. 2017-NMSC-017, ¶¶ 24, 30. This sanction was in line with the district courts' general authorization to use "witness exclusion to proactively manage their dockets, achieve efficiency, and ensure that judicial resources—which are greatly limited—are not wasted." *Id.* ¶ 19. Our Supreme Court explained that "*Harper* in no way circumscribed our courts' authority to exercise" the power to "impose meaningful sanctions to effectuate their inherent power and promote efficient judicial administration," *Le Mier*, 2017-NMSC-017, ¶ 19, and that *Harper* did not "embrace standards so rigorous that courts may impose witness exclusion only in response to discovery violations that are egregious, blatant, and an affront to their authority," *Le Mier*, 2017-NMSC-017, ¶ 16. As a result, the inquiry is whether, on a case-by-case basis, "a finding of culpability" is supported by "proof of culpable conduct," which in other cases has included multiple infractions, bad faith, or violations of clear orders. *Id.* ¶ 24; *see id.* ¶ 16 ("*Harper* did not establish a rigid and mechanical analytical framework.").

{22} Considering the present case in that light, the State's conduct supported the finding of culpability. The State did not identify the EMR custodian among the thirty-one specific witnesses that appear on the initial witness list and used "catch-

all" categories, despite the requirement of Rule 5-501(A)(5) to list witnesses by name. Defendant moved to exclude the "testimony of any witness not properly listed" as required by Rules 5-501 and 5-505. The district court granted the motion but after argument, allowed additional time for the State to supplement the witness list. The district court's oral order to identify supplemental witnesses by October 11, 2023 was "clear and unambiguous," but the State identified no additional witnesses until Defendant specifically noted the absence of the EMR custodian and asked for exclusion of EM evidence. *See Le Mier*, 2017-NMSC-017, ¶ 24 (agreeing that the state was sufficiently culpable after violating "clear and unambiguous orders"). The record does not indicate any justification for the failure to identify—for example, difficulties identifying or locating the witness or lack of cooperation by the witness. *See id.* ¶ 23 (noting that late disclosure may be "understandable . . . in certain circumstances"); *Harper*, 2011-NMSC-044, ¶ 23 (noting that the state lacked culpability when the interview was scheduled but the witness did not appear). The district court's determination that the State was culpable was therefore not an abuse of discretion. *See Le Mier*, 2017-NMSC-017, ¶ 22 ("We cannot say the trial court abused its discretion by its ruling unless we can characterize it as clearly untenable or not justified by reason." (internal quotation marks and citation omitted)).

B. Prejudice

{23} The State challenges, on multiple fronts, the prejudice resulting from the late disclosure and argues that across the board, "more [was] needed." The prejudice inquiry focuses on the tangible harm caused by the state's conduct, whether that harm be to the defendant, the court, or the justice system. *See Harper*, 2011-NMSC-044, ¶ 16 ("The assessment of sanctions depends upon the extent of the [g]overnment's culpability weighed against the amount of prejudice to the defense." (omissions, internal quotation marks, and citation omitted)); *Le Mier*, 2017-NMSC-017, ¶¶ 25-26 (identifying prejudice when a party's culpable conduct causes the "other parties and the justice system as a whole" to suffer). In other cases, prejudice has been identified as the late disclosure of material evidence that undermines the defendant's trial preparation, *see Harper*, 2011-NMSC-044, ¶ 20, delayed trial settings, trial by surprise, waste of resources, and disruption to the docket, *see Le Mier*, 2017-NMSC-017, ¶¶ 25-26. In the present case, the State's overarching position is that Defendant was not prejudiced but instead was engaged in a strategy to capitalize on an oversight by the State, particularly when the EM evidence was always a central feature of the State's case.

{24} The district court, however, did not view the proceedings this way. The district court determined that the State charged the case in a complicated way and then did not pursue the necessary evidence. The State suggests that Defendant should have

asked "directly and early on" if the State intended to call a witness to provide the foundation for the EM evidence. Rules 5-501(A) and 5-505, however, impose a continuing duty on the State to identify witnesses. The rules include no provision for Defendant to clarify if the State does not comply. We therefore disagree that in order to show prejudice resulting from the failure to identify witnesses, Defendant was responsible for first clarifying the State's intentions regarding the EM evidence. As late as March 2023, the status of the EM evidence was in question—Defendant indicated at a hearing that the data may have been lost. Defendant made efforts to generally alert the State to the problem. With trial rapidly approaching and after multiple continuances, Defendant formulated a strategy based on the state of the evidence at that time and did not pursue other strategies that might have been appropriate if the EM evidence were admitted. Those preparations were disrupted by the State's late disclosure, which prejudiced Defendant. From this perspective, the district court reasonably viewed the circumstances as Defendant acting to clarify the State's intentions and proceeding forward based on the State's representations.

{25} The State points to other facts in order to minimize the prejudice resulting from late disclosure: Defendant had the opportunity to interview the EMR custodian, trial was postponed for other reasons, severance remained a possibility, and Defendant's pretrial incarceration was extended for more reasons than the late-disclosed witness. These mitigating facts do not erase the prejudice that resulted

from the need to change strategies. Nor are we persuaded that the extension of Defendant's pretrial incarceration was wholly unrelated to litigating the late disclosure of the EMR custodian. That prejudice extended to the district court. Multiple delays had already occurred throughout the proceedings, which the district court had carefully monitored, in order to safeguard Defendant's speedy trial rights, and the district court was required to accommodate the motions related to the late filing and additional postponement of trial. *See Le Mier*, 2017-NMSC-017, ¶ 26. As a result, the finding of prejudice was not "clearly against the logic and effect of the facts and circumstances of the case." *See id.* ¶ 22 (internal quotation marks and citation omitted).

C. Lesser Sanctions

{26} Last, the State argues that the exclusion of the EMR custodian was an "illogically disproportionate sanction" based on the culpability and prejudice *Harper*/*Le Mier* factors as well as the impact of the sanction on the evidence and merits of the trial. The State cites *State v. Garcia*, 2025-NMSC-030, ¶ 34, 578 P.3d 1073, which noted that "the trial court should seek to apply sanctions that affect the evidence at trial and the merits of the case as little as possible." But a "court [is] only required to fashion the least severe sanction that best fit[s] the situation *and* which accomplishe[s] the desired result." *Le Mier*, 2017-NMSC-017, ¶ 27. Thus, the district court has discretion to impose a particular sanction when called for by the

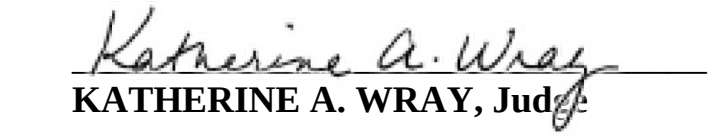
circumstances. *See id.* ¶ 16 ("[C]ourts must be able to avail themselves of, and impose, meaningful sanctions where discovery orders are not obeyed and a party's conduct injects needless delay into the proceedings.").

{27} Much like the determination in *Le Mier*, in the present case, (1) the State was given an additional opportunity to identify the witness but did not; and (2) "the district court responded to the specific violation at issue with a sanction tailored to fit that violation" because the witness who was excluded was the witness who was disclosed late. *See* 2017-NMSC-017, ¶¶ 3, 27-29 (affirming the choice of sanction applying similar principles). The district court found the State to be culpable, not only in missing the witness deadline but in the overall prosecution of the case, and determined Defendant to be prejudiced. Under these circumstances, witness exclusion was one of many correct outcomes of the application of the law to these facts. *See id.* ¶ 27 ("[T]he district court was not obligated to consider every conceivable lesser sanction before imposing witness exclusion."). For that reason, we defer to the district court's judgment about "the most effective and least severe way to achieve the desired ends." *See id.* ¶ 29; *see also Ferry*, 2018-NMSC-004, ¶ 2 (explaining that deference is owed to the district court where "reasonable minds" could "differ regarding the outcome").

CONCLUSION

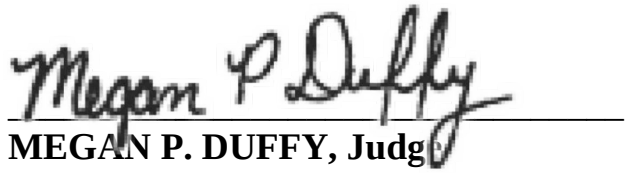
{28} We affirm.

{29} **IT IS SO ORDERED.**

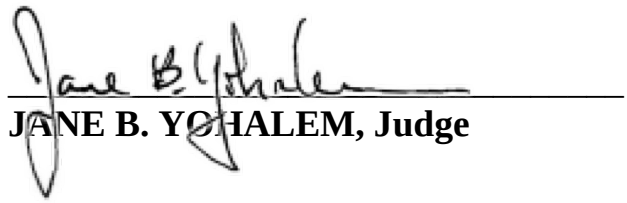


KATHERINE A. WRAY, Judge

WE CONCUR:



MEGAN P. DUFFY, Judge



JANE B. YOHALEM, Judge