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1 IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

2 | STATE OF NEW MEXICO,

Court of Appeals of New Mexico

Filed 2/9/2026 7:53 AM

3 Plaintiff-Appellant,

 Mark Reynolds

4 | V.

No. A-1-CA-42855

5 **GREGORIO AGUIRRE a/k/a**
6 **GREGORIO AGUIRRE, JR.,**

7 Defendant-Appellee.

**8 APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY
9 Conrad F. Perea, District Court Judge**

10 Raúl Torrez, Attorney General
11 Santa Fe, NM

12 for Appellant

13 Bennett J. Baur, Chief Public Defender
14 Conrad D. Bridges, Assistant Appellate Defender
15 Santa Fe, NM

16 for Appellee

MEMORANDUM OPINION

18 IVES, Judge.

19 {1} The State appeals from the district court's order that excluded both parties'
20 witness lists and dismissed the State's case with prejudice. We issued a notice
21 proposing to summarily reverse and remand. Defendant has filed a memorandum in
22 opposition to our proposed analysis. Unpersuaded by Defendant's arguments, we
23 reverse and remand to the district court for further proceedings.

1 {2} On appeal, the State contends that the district court abused its discretion by
2 dismissing the charges “with prejudice—sua sponte—based solely on the State’s
3 failure to file trial materials through a specific electronic system—despite timely
4 submission by email, the absence of bad faith or prejudice, and similar procedural
5 noncompliance by [D]efendant.” [DS 6] The State argued that it substantially
6 complied with LR3-303(K)(1)(a) NMRA and that the most severe remedies of
7 exclusion of all witnesses and dismissal were contrary to the required analysis in
8 *State v. Harper*, 2011-NMSC-044, 150 N.M. 745, 266 P.3d 25, and *State v. Le Mier*,
9 2017-NMSC-017, 394 P.3d 959. [DS 6, 9-20]

10 {3} Our notice proposed to reverse the district court’s exclusion and dismissal,
11 reasoning that even assuming that the State’s timely submission of its materials via
12 email constituted a violation of the local rule, there was no indication in the record
13 that the district court engaged in the analysis required by *Harper* and *Le Mier*, at
14 least not in the manner required by our case law to allow substantive appellate
15 review. [CN 2-6] In response to our notice, Defendant contends that we should not
16 reverse on the summary calendar because our analysis was based on partial
17 information [MIO 5-9], and we should have presumed the district court engaged in
18 the proper analysis under *Harper* and *Le Mier*. [MIO 9-13] Notably, Defendant does
19 not claim that the district court, in fact, engaged in the analysis required by *Harper*
20 and *Le Mier*.

1 {4} We are not persuaded by Defendant's claim that our proposed analysis relies
2 on incomplete information and fails because the district court imposed sanctions for
3 the local rule violations at a hearing and because it imposed more sanctions than
4 dismissal, including the denial of a continuance. [MIO 5-9] The mere existence of a
5 hearing and the imposition of multiple sanctions does not mean that the district court
6 engaged in the proper analysis, and those bare facts do not require this Court to rely
7 on the presumption of correctness under the circumstances in this case. Moreover,
8 this Court has reviewed the audio recording of the pretrial hearing, at which the
9 district court *sua sponte* imposed the sanctions, and we have confirmed that the
10 district court did not consider the appropriate factors on the record as required by
11 our case law. [7-9-2025 FTR 8:06:36-8:36:00]

12 {5} As stated in our notice, in *Harper*, the our Supreme Court characterized the
13 exclusion of witnesses and dismissal with prejudice as “severe sanction[s]” that
14 “should not be imposed except in extreme cases.” 2011-NMSC-044, ¶ 21. Our
15 Supreme Court set out clear limitations on the scope of a district court’s discretion
16 when ordering the exclusion of witnesses or the dismissal of charges. *Id.* ¶¶ 16-20.
17 *Le Mier* states that the district court “must evaluate the considerations identified in
18 *Harper*—culpability, prejudice, and lesser sanctions—when deciding whether to
19 exclude a witness and must explain [its] decision to exclude or not to exclude a
20 witness within the framework articulated in *Harper*.” *Le Mier*, 2017-NMSC-017, ¶

1 20. While *Le Mier* clarified that *Harper* does not stand for the proposition that
2 “witness exclusion [or other severe sanctions are] justified only if all of the *Harper*
3 considerations weigh in favor of exclusion[,]” *Le Mier* and our case law applying it
4 are unequivocal in the requirement that a district court must consider and explain on
5 the record the manner in which it considered all three of the *Harper* factors. *Le Mier*,
6 2017-NMSC-017, ¶ 20; *see also State v. Lewis*, 2018-NMCA-019, ¶ 12, 413 P.3d
7 484 (“*Le Mier* requires the district court to not only weigh the degree of culpability
8 and extent of prejudice, but also explain its decision regarding applicability of lesser
9 sanctions on the record.”). When a district court fails to explain its sanction decision
10 under the *Harper* factors, the record is inadequate for this Court to engage in a
11 substantive review, and we must reverse and remand for further development of the
12 record. *See Lewis*, 2018-NMCA-019, ¶¶ 16, 18.

13 {6} In the current case, the district court explained the basis for its conclusion that
14 the State and Defendant violated the local rule by failing to timely file witness lists.
15 [RP 120-22] However, the district court never explained at the hearing or in its
16 written order dismissing why it imposed extreme sanctions against the parties under
17 the analysis required by our case law. Because the district court imposed the
18 sanctions at the pretrial hearing without a motion, responsive briefing, or notice to
19 the parties, there was no prepared input from the parties and nothing in the record
20 proper from which we could glean an analysis of the factors, which we could then

1 review. As a result, we hold that the district court erred by imposing severe sanctions
2 without an on-record consideration of the *Harper* factors. *See Le Mier*, 2017-NMSC-
3 017, ¶ 20; *Lewis*, 2018-NMCA-019, ¶¶ 12, 16.

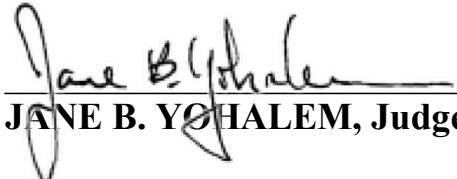
4 {7} For these reasons and those stated in our notice, we reverse the order
5 excluding the witnesses and dismissing the case and remand for further proceedings
6 consistent with this opinion and with *Harper* and *Le Mier*.

7 {8} **IT IS SO ORDERED.**

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10 
11 **ZACHARY A. IVES, Judge**

12 **WE CONCUR:**

13 
14 **J. MILES HANISEE, Judge**

15 
16 **JANE B. YOHALEM, Judge**