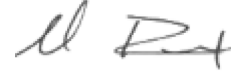


IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 10/1/2026 8:35 AM

STATE OF NEW MEXICO,

Plaintiff-Appellee,


Mark Reynolds

v.

No. A-1-CA-42676

JOSE LUIS ORTEGA,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY

Mark Sánchez, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM
Walter Hart, Assistant Solicitor General
Albuquerque, NM

for Appellee

Mitchell Law Offices, LLC
Aaron Mitchell
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

IVES, Judge.

{1} Pursuant to a guilty plea, Defendant Jose Luis Ortega was convicted in the
district court of aggravated driving while under the influence (DWI), contrary to
NMSA 1978, Section 66-8-102(D)(3) (2016), aggravated assault, contrary to NMSA
1978, Section 30-3-2(A) (1963), and having an open container of alcohol in his

1 vehicle, contrary to NMSA 1978, Section 66-8-138(B) (2013). Defendant appeals,
2 arguing that (1) the district court should have granted his motion to dismiss on
3 timeliness grounds under Rule 6-506 NMRA because the State acted in bad faith by
4 dismissing the aggravated DWI charge in magistrate court and refileing that charge
5 in the district court; and (2) the district court erred by imposing a sanction of \$200
6 against the defense for entering into a plea agreement that was untimely. We affirm
7 the denial of Defendant’s motion to dismiss but reverse the sanction order.

8 **DISCUSSION**

9 **I. Timeliness**

10 {2} The State originally charged Defendant with aggravated DWI in magistrate
11 court on July 19, 2024; voluntarily dismissed that charge on December 2, 2024; and
12 refiled the charge in district court on December 3, 2024. After the State added the
13 aggravated assault and open container charges by way of amended criminal
14 information, Defendant moved to dismiss the case under both the district court
15 speedy trial rule, Rule 5-604 NMRA, and for not trying him within six months of
16 charging him under the magistrate court rule, Rule 6-506. The district court denied
17 his motion based on its analysis of the speedy trial factors outlined in Rule 5-604—
18 the same factors set forth in precedent governing the constitutional right to a speedy
19 trial. *See State v. Radler*, 2019-NMCA-052, ¶¶ 7, 10-11, 448 P.3d 613. Defendant
20 moved to reconsider, arguing that the court should have ruled in his favor under Rule

1 6-506. He theorized that even though the six months did not expire in magistrate
2 court, the clock should have continued to run in district court because the State acted
3 in bad faith when it dismissed the case in magistrate court and refiled it in district
4 court. The court denied Defendant’s motion, reasoning that the six-month rule did
5 not apply.

6 {3} On appeal, Defendant does not assert that he was deprived of his constitutional
7 right to a speedy trial—the right codified in Rule 5-604. He relies exclusively on his
8 theory that the magistrate court six-month rule, Rule 6-506, continued to run even
9 after the case was refiled in district court because the State acted in bad faith. That
10 theory is the basis for multiple claims of error. Reviewing de novo the legal question
11 of whether the six-month rule in Rule 6-506 applies here, *see State v. Rayburns*,
12 2008-NMCA-050, ¶ 7, 143 N.M. 803, 182 P.3d 786, we conclude that it does not.

13 {4} Defendant’s theory regarding the applicability of Rule 6-506 is contrary to
14 current New Mexico law. Rule 6-506 governs charges in magistrate court, requiring
15 dismissal with prejudice unless trial begins within six months of certain triggering
16 events. *See* Rule 6-506(B), (E)(2). Defendant’s theory that Rule 6-506 applies to the
17 charges refiled in district court in his case is based on a prior, outdated version of a
18 district court rule, Rule 5-604—a version that was not in effect during the pendency
19 of Defendant’s case. That outdated version stated, in pertinent part, that “trial of a
20 criminal case [in district court] . . . shall be commenced six (6) months after” certain

1 triggering events in the district court. Rule 5-604(B) (2009). Under the outdated
2 version, one question that arose was how to determine which six-month rule
3 applied—the magistrate court rule or the district court rule—when, as in this case,
4 the state filed the charges first in magistrate court and then later dismissed them and
5 refiled them in district court. The way to answer that question—according to a line
6 of cases decided by our Supreme Court beginning with *State ex rel. Delgado v.*
7 *Stanley*, 1972-NMSC-024, 83 N.M. 626, 495 P.2d 1073, *abrogated by State v.*
8 *Savedra*, 2010-NMSC-025, 148 N.M. 301, 236 P.3d 20—was to determine whether
9 the prosecution had dismissed the magistrate court case and refiled in district court
10 in good faith or in bad faith. *See id.* ¶¶ 7, 10-11; *State v. Heinsen*, 2005-NMSC-035,
11 ¶¶ 23-25, 138 N.M. 441, 121 P.3d 1040, *superseded by rule as stated in State v.*
12 *Hobbs*, 2024-NMCA-037, 547 P.3d 765. If the state’s intentions were “good and
13 sufficient”—for example, because a witness was unavailable—the case was
14 governed by the district court’s six-month rule. *Delgado*, 1972-NMSC-024, ¶ 10;
15 *see Rayburns*, 2008-NMCA-050, ¶ 11 (outlining good faith dismissals). But if the
16 state acted in bad faith—for example, to delay the proceedings—the case was
17 governed by the magistrate court’s six-month rule. *See Delgado*, 1972-NMSC-024,
18 ¶ 11; *Rayburns*, 2008-NMCA-050, ¶¶ 12, 22 (outlining bad faith dismissals).

19 {5} Our Supreme Court, however, abolished this framework long before the
20 charges against Defendant were filed. In *Savedra*, 2010-NMSC-025, ¶¶ 7-8, our

1 Supreme Court concluded that the “analysis developed through the *Delgado* line of
2 cases” was “misguided” because the analysis impermissibly “render[ed] a
3 defendant’s right to be promptly tried as a contingent right, one that may provide
4 protection only if the [s]tate had ‘bad’ reasons for dismissing and refiling.” The
5 Supreme Court refocused the analysis, requiring that “any inquiry into the [s]tate’s
6 reasons for dismissing and refiling in district court should be done within the context
7 of any speedy trial challenge [that] the defendant may raise after the case is refiled
8 in district court.” *Id.* ¶ 8. The analyses of such challenges are governed by the
9 constitutional speedy trial test; they are not governed by any six-month rule.¹ *See id.*
10 ¶¶ 7-9.

11 {6} Our Supreme Court recognized that its holding required revision of Rule 5-
12 604, *see Savedra*, 2010-NMSC-025, ¶ 9, eventually adopting the current version,
13 which provides, in pertinent part:

¹ In his reply brief, Defendant argues that *Savedra* left in place *State v. Carreon*, 2006-NMCA-145, 140 N.M. 779, 149 P.3d 95, *abrogated by Savedra*, 2010-NMSC-025, which is part of the *Delgado* line of cases. But in *Savedra* our Supreme Court applied *Carreon* only to affirm the dismissals of the cases against the defendants in *Savedra* itself because *Carreon* and the other cases in the *Delgado* line, along with the old version of Rule 5-604, were the legal authorities that were in effect while those defendants’ cases were pending. *See Savedra*, 2010-NMSC-025, ¶¶ 3-5. This does not help Defendant because *Savedra* abrogated *Carreon*, as this Court recognized in *State v. Loya*, 2011-NMCA-077, ¶ 6, 150 N.M. 373, 258 P.3d 1165. Defendant’s appeal is governed by the law that has been in effect throughout the pendency of his case—that is, the rule announced in *Savedra* and codified in the current version of Rule 5-604.

1 If the district court does not initially schedule a refiled case within the
2 trial deadline that would have been applicable had the case remained in
3 the lower court, or if the court grants a continuance beyond that
4 deadline, the defendant may move that the court consider whether the
5 case should be dismissed for violation of the defendant's right to speedy
6 trial.

7 Rule 5-604(B). Such motions are—consistent with *Savedra*—governed by the test
8 for constitutional speedy trial, under which courts must consider the following
9 factors:

10 (1) the complexity of the case; (2) the length of the delay in bringing
11 the defendant to trial; (3) the reason for the delay in bringing the
12 defendant to trial; (4) whether the defendant has asserted the right to a
13 speedy trial or has acquiesced in some or all of the delay; and (5) the
14 extent of prejudice, if any, from the delay.

15 Rule 5-604(B); *accord Radler*, 2019-NMCA-052, ¶ 11.

16 {7} Under *Savedra* and the 2009 version of Rule 5-604 that governs Defendant's
17 case, whether the State acted in good faith or bad faith plays a limited role; the
18 inquiry is relevant only to the third factor, the reason for the delay. *See Savedra*,
19 2010-NMSC-025, ¶ 8. But, as we have noted, Defendant has not argued on appeal
20 that his constitutional right to a speedy trial was violated. He has argued instead that
21 the State acted in bad faith and that this required dismissal pursuant to the magistrate
22 court six-month rule, Rule 6-506—an argument that is not legally viable under

1 current New Mexico law.² Defendant has not established that the district court erred
2 by denying his motion to dismiss.

3 **II. Sanction**

4 {8} Defendant challenges a \$200 sanction imposed on the defense for accepting a
5 plea offer on the day Defendant’s case was set for trial, which was Monday, May 5,
6 2025. On the Friday before the Monday trial setting, Defendant’s counsel received
7 a plea offer from the State. Specifically, the State’s offer was for Defendant “to plead
8 straight up [to all the charges]” in exchange for a sentencing recommendation from
9 the State. On the morning of trial, the defense informed the court that Defendant
10 would like to accept the State’s offer. Before proceeding, the court warned
11 Defendant that the jury was already called, and that it “[o]rdinarily” sanctions a
12 defendant for such “late notification” in the amount of “\$1,500.00 in estimated jury
13 and interpreter fees.” The court allowed both sides to argue. Defendant stated he
14 “just received [the offer] on Friday” and that “it wasn’t necessarily [Defendant and
15 his counsel] dragging [their] feet.” The court reviewed its docket and determined it

²Several of Defendant’s arguments focus on claimed errors by the district court in applying the outdated good-faith-bad-faith analysis. We do not address these arguments because any such errors would not warrant reversal under current New Mexico law. *See Morris v. Merchant*, 1967-NMSC-026, ¶ 24, 77 N.M. 411, 423 P.2d 606 (“The function of an appellate court is to correct an erroneous result, and it will not correct errors which, even if corrected, will not change the result.”).

1 could not use the jury for another trial that day. The court imposed a \$200 sanction
2 on Defendant and his counsel but did not impose any sanction on the State.

3 {9} It is well established—and Defendant does not dispute—that “[d]istrict courts
4 have the inherent authority to impose a variety of sanctions on both litigants and
5 attorneys in order to regulate their docket, promote judicial efficiency, and deter
6 frivolous filings.” *Harrison v. Bd. of Regents of Univ. of N.M.*, 2013-NMCA-105,
7 ¶ 2, 311 P.3d 1236 (internal quotation marks and citation omitted). We “review a
8 district court’s imposition of sanctions under its inherent power for an abuse of
9 discretion,” and review de novo the application of the law to the facts. *Id.* ¶ 14. “An
10 abuse of discretion occurs when a ruling is clearly contrary to the logical conclusions
11 demanded by the facts and circumstances of the case,” *Sims v. Sims*, 1996-NMSC-
12 078, ¶ 65, 122 N.M. 618, 930 P.2d 153, or when the action taken is “arbitrary or
13 capricious,” *State v. Bonilla*, 2000-NMSC-037, ¶ 6, 130 N.M. 1, 15 P.3d 491
14 (internal quotation marks and citation omitted).

15 {10} This standard is met, according to Defendant, because, among other reasons,
16 there is no basis for sanctioning the defense alone, and not also sanctioning the State,
17 when it was the prosecutor who made the plea offer so close to trial. We agree. It
18 appears that in this case *both* the prosecution and the defense ran afoul of Rule 5-
19 304(E) NMRA, which states that “no plea agreement shall be entered into later than
20 five (5) days before the scheduled date for jury selection.” *But see* Rule 5-304(F)

(permitting a district court to accept an untimely plea agreement if certain conditions are met). The Rule 5-304(E) deadline passed even before the prosecutor made the plea offer, which meant the defense's acceptance of the offer occurred after the deadline had passed. But, importantly, only the defense was sanctioned, even though it had no opportunity to consider the prosecution's offer before the deadline, and even though there was no evidence that the defense played any role in causing the State to make the plea offer past the deadline. We see no principled basis for attributing to the defense the blame for the timing of the plea, and for sanctioning only Defendant and defense counsel. *See Sims*, 1996-NMSC-078, ¶ 65. We therefore reverse the sanction order.

CONCLUSION

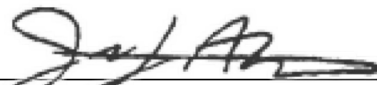
{11} We affirm the denial of Defendant's motion to dismiss and therefore affirm his convictions and sentence. We reverse the sanction order.

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

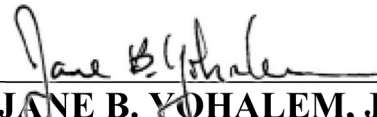


ZACHARY A. IVES, Judge

WE CONCUR:



JENNIFER L. ATTREP, Judge



JANE B. YOHALEM, Judge