

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 10/22/2026 7:15 AM

STATE OF NEW MEXICO,

Plaintiff-Appellee,



Mark Reynolds

v.

No. A-1-CA-41352

GILBERTO MEDRANO-LOPEZ,

Defendant-Appellant.

**APPEAL FROM THE METROPOLITAN COURT OF BERNALILLO
COUNTY**

Nina Safier, Metropolitan Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Kelly J. Garcia, Assistant Solicitor General

Albuquerque NM

for Appellee

Bowles Law Firm

Jason Bowles

Albuquerque, NM

for Appellant

MEMORANDUM OPINION

WRAY, Judge.

{1} Defendant appeals the metropolitan court's conviction for driving while
intoxicated (DWI), contrary to NMSA 1978, Section 66-8-102(C) (2016)
(describing a per se violation for driving with a breath alcohol concentration that
exceeds the legal limit). The metropolitan court denied Defendant's pretrial motion

1 to suppress, which argued that the arresting officer’s testimony should be suppressed
2 because he did not record or properly secure lapel-recording evidence related to the
3 investigation. On appeal, Defendant maintains that (1) the metropolitan court should
4 have granted the suppression motion because the State breached its duty to preserve
5 evidence, the lapel video was material, and Defendant was prejudiced by its loss;
6 and (2) a new trial is warranted based on the post-trial discovery of information
7 pertaining to the credibility of the testifying officer. We affirm.

8 **DISCUSSION**

9 {2} Because this is a memorandum opinion, we provide additional background as
10 it becomes necessary to our analysis of Defendant’s two issues on appeal.

11 **I. The Lapel Recording**

12 {3} Our Supreme Court has established “a three-part test to determine whether
13 deprivation of evidence is reversible error for denial of a fair trial and thus a denial
14 of due process:” (1) the state “either breached some duty or intentionally deprived
15 the defendant of evidence” (2) the missing “evidence must have been material”; and
16 (3) the absence of the “evidence prejudiced the defendant.” *State v. Duarte*, 2007-
17 NMCA-012, ¶ 10, 140 N.M. 930, 149 P.3d 1027 (internal quotation marks and
18 citation omitted). If relief for lost evidence is warranted and “the loss is known prior
19 to trial, there are two alternatives: Exclusion of all evidence which the lost evidence
20 might have impeached, or admission with full disclosure of the loss and its relevance

1 and import.” *Id.* (internal quotation marks and citation omitted). Defendant argues
2 that (1) the metropolitan court disregarded the State’s breach of the duty to preserve
3 the recording and improperly focused on the lack of bad faith; and (2) the
4 circumstances established that the video was material and its absence prejudicial.
5 We review the metropolitan court’s ruling for abuse of discretion, which “occurs
6 when the ruling is clearly against the logic and effect of the facts and circumstances
7 of the case.” *See id.* ¶ 3 (internal quotation marks and citation omitted).

8 {4} The metropolitan court determined that the State breached a duty to preserve
9 the recording but that suppression was not warranted because that breach was not in
10 bad faith, the recording did not go to Defendant’s guilt or innocence, and other
11 evidence would both permit impeachment of the officer and support a guilty verdict.
12 *See id.* ¶ 10 (explaining that the trial court is in the best position to evaluate “[t]he
13 importance of the lost evidence,” which “may be affected by the weight of other
14 evidence presented, by the opportunity to cross-examine, by the defendant’s use of
15 the loss in presenting the defense, and other considerations” (internal quotation
16 marks and citation omitted)). The metropolitan court noted that the absence of the
17 video was relevant to the fact-finder’s ability to determine impairment to the
18 slightest degree, which the court would “keep in mind.” *See id.* (noting that an
19 alternative remedy to suppression is the admission of evidence that “the lost

evidence might have impeached” together “with full disclosure of the loss and its relevance and import” (internal quotation marks and citation omitted)).

{5} Thus, although suppression was not warranted, the metropolitan court considered the lost video when evaluating the evidence to support impairment to the slightest degree as the fact-finder and acquitted Defendant of that charge. Because the metropolitan court’s ruling was neither “clearly untenable” nor “[un]justified by reason,” we affirm the order denying suppression. *See id.* ¶ 3 (internal quotation marks and citation omitted).

II. New Trial

{6} Defendant also argues that a remedy is warranted based on newly discovered evidence. Specifically, Defendant posits that the factors for a new trial set forth in *State v. Volpato*, 1985-NMSC-017, ¶ 7, 102 N.M. 383, 696 P.2d 471, are satisfied and that due process and fundamental fairness require that the new evidence be considered. Defendant proposes three remedies, each of which would require this Court to evaluate and weigh evidence that has never been presented to the metropolitan court and is not in our record. *See State v. Curlee*, 1982-NMCA-126, ¶ 13, 98 N.M. 576, 651 P.2d 111 (“A reviewing court will not go outside the record in a criminal case” and “will not consider claims relying on information outside the record.”); *State v. Martinez*, 2001-NMCA-059, ¶ 20 n.1, 130 N.M. 744, 31 P.3d 1018 (declining to consider evidence offered on appeal to support a new trial when

1 that evidence was outside the record). Our Supreme Court has observed that “the
2 function of passing upon motions for new trial on newly discovered evidence
3 belongs naturally and peculiarly, although not exclusively, to the trial court.” *State*
4 *v. Garcia*, 2005-NMSC-038, ¶ 7, 138 N.M. 659, 125 P.2d 638. Accordingly, we
5 decline to consider new evidence for the first time on appeal.

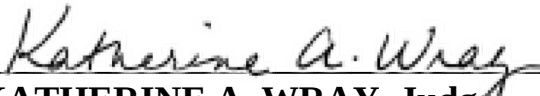
6 {7} Defendant argues that remand from this direct appeal is necessary because the
7 metropolitan court rules, unlike the district court rules, do not provide for a motion
8 for new trial based on newly discovered evidence. *Compare* Rule 7-611(A) NMRA
9 (permitting a motion for a new trial in metropolitan court “if required in the interest
10 of justice”), *with* Rule 5-614(C) NMRA (permitting a motion for new trial in district
11 court based on newly discovered evidence). Defendant seeks the opportunity to file
12 a “Rule 5-614-type motion or an analogous motion under the court’s inherent
13 authority.” The State maintains that Rule 5-614 does not apply. Regardless which
14 rule applies, the time has expired for any motion for new trial. *See* Rule 7-611(B)
15 (providing for motions for a new trial within ten days of the verdict “or within any
16 further time as the court may fix during the ten (10)-day period”); Rule 5-614(C)
17 (requiring a motion for new trial based on newly discovered evidence to be filed
18 before entry of final judgment or within two years). No motion for a new trial has
19 been filed, and final judgment was entered in April 2023. At this late date, Defendant
20 may pursue other means to address the fairness of his conviction and due process.

1 See *McGarrh v. State*, 2022-NMCA-036, ¶ 7, 514 P.3d 55 (determining that Rule 5-
2 803 NMRA affords district courts jurisdiction to consider post-conviction motions
3 arising from magistrate court proceedings). We therefore decline to remand the
4 matter for further proceedings in the metropolitan court.

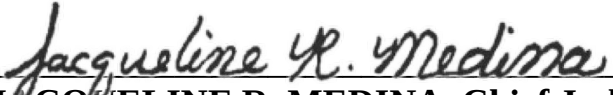
5 **CONCLUSION**

6 {8} We affirm.

7 {9} **IT IS SO ORDERED.**

8 
9 **KATHERINE A. WRAY, Judge**

10 **WE CONCUR:**

11 
12 **JACQUELINE R. MEDINA, Chief Judge**

13 
14 **SHAMMARA H. HENDERSON, Judge**