

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 10/5/2026 9:56 AM

STATE OF NEW MEXICO,

Plaintiff-Appellant,



Mark Reynolds

v.

No. A-1-CA-42900

ISAIAH THOMAS HILLHOUSE,

Defendant-Appellee.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY

Douglas R. Driggers, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

for Appellant

Bennett J. Baur, Chief Public Defender

Santa Fe, NM

Steven J. Forsberg, Assistant Public Defender

Albuquerque, NM

for Appellee

MEMORANDUM OPINION

WRAY, Judge.

{1} The State appeals from the district court's order granting Defendant's motion to exclude the testimony of a police officer, contending that the district court excluded the testimony without addressing the required factors set forth by *State v. Harper*, 2011-NMSC-044, ¶¶ 16-20, 150 N.M. 745, 266 P.3d 25 and *State v. Le Mier*, 2017-NMSC-017, ¶ 20, 394 P.3d 959. We issued a calendar notice proposing

1 to reverse. Defendant filed a memorandum in opposition, which we have duly
2 considered. Remaining unpersuaded, we reverse.

3 {2} In his memorandum in opposition, Defendant asserts that this Court’s
4 proposed summary reversal “improperly extended” relevant precedent and
5 “depart[ed] from well-established legal principles.” [MIO 1] Defendant also
6 contends—as a matter of policy—that the requirements posed by the *Harper/Le*
7 *Mier* line of cases are “fundamentally unfair” to criminal defendants, given that there
8 are few circumstances in the criminal context in which a district court is required to
9 make certain findings, and this Court will generally presume the record to support
10 decisions by the lower court, even if such decisions are not supported by findings.
11 [MIO 2-4] Defendant acknowledges that our *Harper/Le Mier* cases set forth a
12 “limited exception to the general rule that trial courts are not always required to fully
13 explain and justify their rulings on the record.” [MIO 3] Defendant claims, however,
14 that this Court has interpreted our *Harper/Le Mier* precedent “to mean that the trial
15 court must exhaustively address every specific prong of analysis,” and must “do so
16 sua sponte, relieving the parties of any obligation to clarify the record.” [MIO 3] We
17 disagree.

18 {3} As explained in our calendar notice, when weighing whether to exclude
19 witness testimony, the district court must explain their decision within the
20 *Harper/Le Mier* framework. [CN 2] *See Harper*, 2011-NMSC-044, ¶¶ 16, 21

(recognizing the well-established “requirement that any serious sanction against the [s]tate be conditioned on a finding of prejudice,” and explaining that “the exclusion of witnesses should not be imposed except in extreme cases, and only after an adequate hearing to determine the reasons for the violation and the prejudicial effect on the opposing party”); *Le Mier*, 2017-NMSC-017, ¶¶ 15, 20 (explaining that under *Harper*, when deciding whether to exclude a witness, district courts are required to “assess (1) the culpability of the offending party, (2) the prejudice to the adversely affected party, and (3) the availability of lesser sanctions,” and must evaluate such considerations and “explain their decision to exclude or not to exclude a witness within” the *Harper* framework; *State v. Lewis*, 2018-NMCA-019, ¶ 12, 413 P.3d 484 (“*Le Mier* requires the district court to not only weigh the degree of culpability and extent of prejudice, but also explain its decision regarding applicability of lesser sanctions on the record.”)).

{4} Our appellate courts have made clear, however, that the district court’s consideration of the *Harper/Le Mier* factors need not be demonstrated in the record by explicit findings or proof that, as Defendant asserts, the district court “exhaustively address[ed] every specific prong of analysis” regarding the factors. [MIO 3] Rather, the *Harper/Le Mier* framework merely requires there to be some indication in the record—whether implicit or explicit—of the district court’s consideration of culpability, prejudice, and the availability of lesser sanctions. *See*

1 *State v. Multine*, 2025-NMCA-013, ¶ 43, 584 P.3d 898 (recognizing that although
2 the district court’s written order did not explicitly rule on each *Harper* factor, the
3 record indicated the district court’s implicit consideration of and reliance on the
4 factors based on it having heard argument as to each factor at the motion hearing),
5 *cert. denied* (S-1-SC-40873, May 15, 2025); *State v. Guzman*, 2026-NMCA-043,
6 ¶¶ 12-18, 586 P.3d 337 (describing an adequate record of the district court’s
7 consideration of the *Harper/Le Mier* factors despite the district court making no
8 explicit reference to or findings regarding the factors). In this case, there was none.
9 [CN 3] We therefore conclude that our calendar notice does not constitute an
10 improper extension of or departure from any relevant, established precedent.

11 {5} Further, Defendant’s memorandum in opposition does not provide any
12 citation to either (1) the record proper or any relevant hearing to indicate that the
13 district court did, in fact, consider the required factors; or (2) any relevant authority
14 indicating that the district court’s analysis was sufficient under *Harper/Le Mier*
15 precedent. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d
16 1003 (explaining that a party responding to a summary calendar notice must
17 specifically identify errors of either law or fact), *superseded by statute on other*
18 *grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; *see also*
19 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
20 courts have repeatedly held that, in summary calendar cases, the burden is on the

1 party opposing the proposed disposition to clearly point out errors in fact or law.”).

2 We therefore conclude that Defendant’s memorandum in opposition does not

3 demonstrate that our calendar notice was erroneous. *See Mondragon*, 1988-NMCA-

4 027, ¶ 10; *Hennessey*, 1998-NMCA-036, ¶ 24.

5 {6} Accordingly, for the reasons stated in our calendar notice and herein, we

6 reverse. In so doing, we make no determination regarding whether the district court’s

7 exclusion of the witness’s testimony was proper in this case. *See Lewis*, 2018-

8 NMCA-019, ¶ 16 (clarifying that because the district court did not “satisfy the

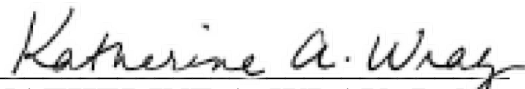
9 requirement that it develop an adequate record and explain its reasons for imposing”

10 the sanction of dismissal, this Court was without “an adequate record explaining the

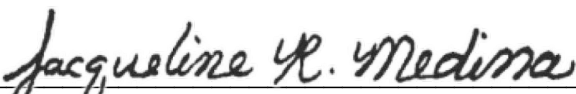
11 district court’s ruling and reasoning,” and therefore made no determination

12 regarding whether dismissal was a proper sanction).

13 {7} **IT IS SO ORDERED.**

14 
15 **KATHERINE A. WRAY, Judge**

16 **WE CONCUR:**

17 
18 **JACQUELINE R. MEDINA, Chief Judge**

19 
20 **GERALD E. BACA, Judge**