

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

AUG 15 2005

IN THE MATTER OF:  
SUPERVISED RELEASE VIOLATIONS  
AND RELATED CASES

**MATTHEW J. DYKMAN**  
Misc. No. 05-91 **CLERK**

**ORDER ADOPTING PROCEDURE ON SUPERVISED RELEASE  
VIOLATIONS AND RELATED CASES**

The following procedure is adopted by the United States District Court for the District of New Mexico for defendants arrested on new offenses that are found to be serving a term of supervised release.

**Standard Procedure**

The United States Probation/PreTrial Office, when notified of an arrest and provided with a copy of the criminal complaint by the magistrate courtroom deputy, will conduct a background check to determine whether the defendant has been previously arrested and whether he/she is serving a term of supervised release related to the prior arrest. If so, the Probation/PreTrial Office will prepare a "notice of related case" which will list both the case number assigned to the violation as well as the case number assigned to the new arrest, and file it immediately with the Clerk's Office. Within a few days, the Probation/Pretrial officer will prepare a supervised release violation packet and warrant related to this prior case, and file those documents with the Clerk's Office after the petition is reviewed and approved by the district judge<sup>1</sup>. Both the notice

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<sup>1</sup>It may take the Probation/PreTrial Office several days to prepare the paperwork related to the violation packet and get the approval of the district judge. By immediately filing the "notice of related case" instead of waiting and filing it with the violation packet, the Court is immediately put on notice of the existence of the prior case.

and the violation packet paperwork will route through the magistrate courtroom deputy coordinator in Albuquerque or the operations supervisor in Las Cruces, who will ensure that a copy of the related case pleading is placed in the magistrate case file related to the new arrest. When the new case is ready for a district judge assignment, the courtroom deputy will assign the new case to the district judge assigned to the prior case, per the information on the "notice of related case."

If necessary, the defendant, upon completion of his/her initial appearance, will be transported by the United States Marshal's Office to the duty location of the judge assigned to preside over both cases.

The attorney originally assigned to the case with the revocation will be assigned, if possible, to the new case. If that attorney is no longer available for assignments, a new attorney will be assigned to both cases.

The Probation/PreTrial Office in the designated duty location will be responsible for preparing and forwarding to chambers the presentence and violation reports on the two cases.

Should a new case receive a judge assignment prior to the determination that there is a violation pending, and if the judge assigned to the new case is different than the judge assigned to the prior case, the Probation/PreTrial Office will still prepare a notice of related case but it will be sent by the Clerk's Office to the judges assigned to both cases for their decision whether the new case should be reassigned to the judge handling the violation.

### **Transfers of Jurisdiction**

If the initial background check determines that a defendant is serving a term of supervised release in another district, the United States Probation/PreTrial Office in the District of New

Mexico will prepare the paperwork to request the transfer of the supervision case to the District of New Mexico. The transferring court will be asked to expedite the transfer, however, there will be a delay before the paperwork is received. The notice of related case, in these instances, will be filed upon receipt of the transfer paperwork.

**Miscellaneous special circumstances**

If a defendant is arrested on new charges in Las Cruces and is found to have a prior case that originally came before a judge under the "duty judge system," the new case will be assigned to the judge assigned on the prior case, even if that judge was not the sentencing judge. It would then be that judge's decision whether to travel to Las Cruces to handle the cases or have a judge currently on the block, or either Senior Judge Parker or Senior Judge Conway handle the matters.

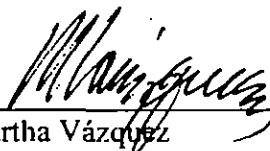
If a new (b)(2) case is sent up to Albuquerque and it is later determined the defendant has a violation from a prior case originating in Las Cruces, the (b)(2) case will be returned to Las Cruces and assigned to the judge handling the violation.

In the instance where a defendant is arrested on new charges in Albuquerque, but has an original violation from Las Cruces, or vice versa, the decision to transfer the new case to the location of the violation case will depend on what the new charges are. In most instances, the new charges relate to a reentry, so transferring the new case to the location of the original violation case would not create major issues. However, if the new charges are more serious, involving drugs or firearms, for instance, transferring could create a problem with witnesses and agents. These will need to be decided on a case by case basis.

Judge Brack will be assigned any violations arising from cases originally assigned to Judge Bratton and the subsequent related case.

Dated: August 15, 2005

FOR THE COURT:

A handwritten signature in black ink, appearing to read 'Martha Vázquez', written over a horizontal line.

Martha Vázquez  
Chief United States District Judge

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UNITED STATES PROBATION/ PRETRIAL

DISTRICT OF NEW MEXICO

Defendant.

No. CR

NOTICE OF RELATED CASE

The Probation/PreTrial Office for the District of New Mexico hereby notifies the Clerk's

Office that:

*(Check A, B or C)*

- (A) \_\_\_\_\_ A petition has been filed to revoke the above named defendant's supervision based on new criminal charges. The Clerk of the Court is requested to assign the new criminal case to the Honorable \_\_\_\_\_ as revocation/disposition proceedings are pending before that judge. The current case number assigned to the new case is \_\_\_\_\_.
- (B) \_\_\_\_\_ The above named defendant has entered a plea of guilty in case number \_\_\_\_\_ and sentencing is scheduled for \_\_\_\_\_ before the Honorable \_\_\_\_\_.
- (C) \_\_\_\_\_ A petition has been prepared to initiate supervision violation proceedings in multiple cases. The Clerk of the Court is advised the criminal case with the lowest case number is \_\_\_\_\_ which is assigned to the Honorable \_\_\_\_\_. Violation proceedings are also sought in case number \_\_\_\_\_ which is assigned to the Honorable \_\_\_\_\_.

\_\_\_\_\_  
U. S. Probation/PreTrial Office

\_\_\_\_\_  
Date