

9-618. Order on probation violation hearing.

[For use with Magistrate Court Rule 6-802 NMRA, Metropolitan Court Rule 7-802 NMRA, and Municipal Court Rule 8-802 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
_____ COURT

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v. _____ No. _____
_____, Defendant.

ORDER ON PROBATION VIOLATION HEARING

This matter came before the court on _____ (date), on an allegation that Defendant violated probation. Defendant appeared in person and with counsel, _____ (name of counsel), or waived counsel. The prosecution was represented by _____ (name and title).

Defendant, having [] admitted the probation violation [] denied the probation violation and a hearing having been held, the court **FINDS** that Defendant [] violated [] did not violate probation.

THE COURT FURTHER FINDS:

That the original sentence was [] suspended [] deferred [] conditionally discharged and the charges were sentenced [] concurrently [] consecutively (if consecutively, each charge must be addressed).

[] Defendant was a fugitive from justice and may have up to _____ days added as absconder time.

It is hereby ORDERED, ADJUDGED, AND DECREED that:

[] Defendant is continued on probation as originally imposed in the judgment and sentence.

[] Defendant shall be released from custody for this cause.

[] Defendant shall report to probation services immediately on release from custody.

[] Absconder time of _____ days shall be added to the original probation end date.

[] Defendant's probation is revoked and a new sentence is imposed as follows:

[] Defendant shall be given credit for _____ days on probation and _____ days in jail.

Defendant shall be sentenced to _____ days in _____ (*detention facility*) with _____ days suspended, leaving _____ days to serve.

Defendant is hereby remanded to _____ (*detention facility*).

Defendant shall report to the _____ (*detention facility*) on or before _____ (*date*) by _____ (*time*) to serve _____ days.

Work release is authorized.

This sentence shall be served on weekends.

Defendant shall be placed on _____ days of supervised unsupervised probation to begin on _____ (*date*).

All provisions of the original judgment and sentence not specifically modified herein remain in effect, with the following additional probation requirements:

Defendant shall report to probation services immediately on release from custody.

Defendant shall complete drug/alcohol screening within _____ days and follow any recommended treatment.

Defendant shall apply within _____ days, be screened, and if accepted, enter and successfully complete Drug Court.

Defendant shall complete a behavioral health assessment and follow any recommended treatment.

Defendant shall participate in random urinalysis for _____ days or as recommended.

Defendant shall enroll into Batterer's Intervention program within _____ days.

Defendant shall enroll into intensive, outpatient counseling program within _____ days.

Restitution, to be determined by probation officer, to be paid in full within _____ days.

Other _____.

Defendant's probation is revoked. Defendant is hereby remanded to _____ (*detention facility*) for _____ days, with _____ days of presentence confinement credit toward jail sentence with _____ days remaining to be served.

Defendant *may be furloughed* to serve jail sentence in an approved rehabilitative treatment program. If Defendant is terminated from program, or voluntarily leaves program, Defendant shall report to _____ (*detention facility*) immediately, but not later than twenty-four (24) hours of leaving program. If Defendant fails to report to the detention facility within twenty-four (24) hours of leaving program, a bench warrant for failing to comply will be issued and Defendant will go back into custody to serve remaining sentence; Defendant may also be prosecuted for an escape from jail charge.

Defendant to be transported by _____ (*agency*) to rehabilitation program.

OR

Defendant to be transported by private party _____ (*party*) to the rehabilitation program. Defendant may be released to _____ (*party*) for transport once proof of acceptance into an approved rehabilitation program is provided

to the court or probation services. A copy must be provided to the _____
(*detention facility*) prior to release.

Defendant shall receive an UNSATISFACTORY discharge from probation.

The fine of \$ _____ is imposed and shall be assessed suspended partially suspended, with \$ _____ suspended. Defendant shall receive credit for \$ _____ already paid, leaving a balance of \$ _____ (may include a bench warrant fee) to be paid in thirty (30) days or per payment plan.

Jail in lieu of fines, fees, and costs beginning _____ (*date*) for _____ days. Jail in lieu of fine shall run concurrent or consecutive to other jail sentence herein.

Community service in lieu of fines, fees, and costs. Defendant shall complete _____ hours by _____ (*date*).

IT IS ORDERED that a copy of this order and commitment be delivered to the _____ (*detention facility*).

FAILURE TO COMPLY

Failure to report, comply with the conditions of probation, or pay costs or fines will result in a bench warrant for Defendant's arrest.

APPEAL

Defendant is hereby advised that this Order on Probation Violation Hearing may be appealed to the district court by filing a notice of appeal in the district court within fifteen (15) days from the date of entry of this Order. In accordance with Rules 6-802 and 8-802 NMRA, "the only issue the district court will address on appeal will be the propriety of the revocation of probation. The district court shall not modify the sentence of the magistrate or the municipal court."

CONDITIONS OF RELEASE

If Defendant files a notice of appeal, the following additional conditions of release are hereby approved pending appeal to the district court:

Release bond pending appeal is set at \$ _____

Dated _____
_____ Judge

[As adopted by Supreme Court Order No. 09-8300-037, effective November 16, 2009; as amended by Supreme Court Order No. 22-8300-024, effective for all cases pending or filed on or after December 31, 2022.]