

  
Joey D. Moya

**IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO**

**NO. S-1-SC-36763**

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

**PETITIONER'S MOTION TO SEAL**

JUDICIAL STANDARDS COMMISSION  
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*Counsel for Petitioner*

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*Counsel for Respondent*

**IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO**

**NO. S-1-SC-36763**

IN THE MATTER OF HON. WARREN G. WALTON  
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INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

**PETITIONER'S MOTION TO SEAL**

COMES NOW Petitioner Judicial Standards Commission ("the Commission"), through the undersigned counsel, and respectfully requests the Supreme Court issue an order sealing *Petitioner's Motion to Enforce Terms of Paragraph 15 of Stipulation Agreement and Consent to Discipline ("Motion to Enforce")* and the Record of Hearing (CD) unless and until the Court issues an order granting *Petitioner's Motion to Enforce*.

As grounds for this motion, the Commission states that the above-captioned and numbered matter was previously unsealed by the Court's *Order* of December 18, 2017; however, the Commission recently held an evidentiary hearing concerning questions of Respondent Hon. Warren G.

Walton's compliance with the terms of the *Stipulation Agreement and Consent to Discipline* ("*Stipulation*"). This Court accepted the *Stipulation* in its *Order* of December 18, 2017, and ordered Respondent to abide by all terms of the *Stipulation*. Because the issue of compliance is a new matter, in the spirit of Rule 27-104(B) NMRA, the Commission believes its *Motion to Enforce* and the Record of Hearing (CD) should be sealed until reviewed and the *Motion to Enforce* is ruled upon by the Supreme Court.

WHEREFORE, Petitioner respectfully requests this Court order its *Motion to Enforce* and the (CD) Record of Hearing be sealed unless and until the Court grants the *Motion to Enforce*.

JUDICIAL STANDARDS COMMISSION

A handwritten signature in black ink, appearing to read "RD Roybal", is written over a horizontal line. The signature is stylized and cursive.

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

DEBORAH L. BORIO  
*Senior Investigative Trial Counsel*  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
Telephone: (505) 222-9353

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed and served via the Supreme Court's electronic File and Serve system, addressed to Steven L. McConnell, Esq., Counsel for Respondent, on this 13<sup>th</sup> day of February, 2019.

  
\_\_\_\_\_  
DEBORAH L. BORIO, ESQ.

**S-1-SC-36763**

**CONDITIONALLY UNDER SEAL**

**Subject to a Motion to Seal**

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

NO. S-1-SC-36763

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

PETITIONER'S MOTION TO ENFORCE TERMS OF  
PARAGRAPH 15 OF  
STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

JUDICIAL STANDARDS COMMISSION  
RANDALL D. ROYBAL  
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*Counsel for Petitioner*

STEVEN L. McCONNELL, ESQ.  
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Fax: (575) 445-5621

*Counsel for Respondent*

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

NO. S-1-SC-36763

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

PETITIONER'S MOTION TO ENFORCE TERMS OF  
PARAGRAPH 15 OF  
STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

COMES NOW Petitioner Judicial Standards Commission ("the Commission"), through the undersigned counsel, and respectfully requests the Supreme Court issue an order enforcing paragraph 15 of the *Stipulation Agreement and Consent to Discipline* ("Stipulation") entered into by the Commission and Hon. Warren G. Walton ("Respondent") on November 21, 2017.

1. On November 21, 2017, the Commission and Respondent entered into a *Stipulation Agreement and Consent to Discipline*. (See Exhibit 1)

2. On November 22, 2017, the Commission filed, under seal, its *Petition to Accept Stipulation Agreement and Consent to Discipline* (“*Petition*”) in the above-captioned matter. (See Exhibit 2)

3. This Court determined that acceptance of the *Stipulation* was in the best interests of the judiciary and the public and, on December 18, 2017, issued its *Order* granting the Commission’s *Petition* and ordering Respondent to abide by all terms of the *Stipulation*. (See Exhibit 3)

4. On October 11, 2018, Respondent participated in a publicly broadcast radio interview with KRTN Radio in Raton, New Mexico. During the interview, Respondent made statements to the media that were alleged to have misrepresented the facts and circumstances of the *Stipulation* by misrepresenting the grounds, extent and nature of Respondent’s admitted and uncontested conduct detailed in the *Stipulation*. Such misrepresentations would constitute a violation of the terms of paragraph 12 of the *Stipulation*.

5. Paragraph 12 of the *Stipulation* states:

Respondent shall not make any misrepresentations to the media concerning these matters (consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and Inquiry No. 2017-053), the facts and



circumstances of Respondent's *Stipulation*, or the Commission's proceedings.

6. Paragraph 15 of the *Stipulation* states:

Non-Compliance and Breach. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in the *Notice of Preliminary Investigation* issued in Inquiry No. 2017-053, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt. In addition, the three-week suspension without pay detailed in paragraph 5d [of the *Stipulation*] will be automatically imposed. Further, if Respondent's conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, Respondent agrees that he shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

7. On January 10, 2019, the Commission issued a *Show Cause Order* to Respondent, through counsel, Steven L. McConnell, Kamm & McConnell, L.L.C. (See Exhibit 4)

8. On February 11, 2019, the Commission held an evidentiary show cause hearing in which Respondent appeared personally and through his counsel.

9. The following eight (8) Commissioners participated in the hearing, deliberations, vote, adoption of the findings, and decision to petition this Court for enforcement of the *Stipulation*:

Hon. John A. Dean, Jr., *Presiding Officer*  
Joyce Bustos, *Chair*  
Norman L. Gagne, Esq.  
Hon. Maurine Laney  
Hon. Steven Lee  
Nancy R. Long, Esq.  
Kimberli Ronquillo  
Malinda Williams, *Vice Chair*

The following three (3) Commissioners were not present and did not participate in the proceedings: Hon. Alisa A. Hart, John Bode, and Caleb Chandler. Two Commission positions are vacant.

10. The Commission heard testimony from Respondent and admitted four (4) exhibits into evidence:

a. Stipulated Exhibit 1: CD/audio recording of Hon. Warren G. Walton's interview on KRTN Radio on October 11, 2018, from time marker 7:57 through 11:22<sup>1</sup> ;

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<sup>1</sup> The recording of the interview (Stipulated Ex. 1) is contained within the Record of Hearing and may be found starting at 11:18:15 through 11:21:48 on the FTR Record of Hearing.

b. Stipulated Exhibit 2: Transcript of the recording of Hon. Warren G. Walton's interview on KRTN Radio on October 11, 2018, from time marker 7:57 through 11:22 (see Exhibit 5-1);

c. Stipulated Exhibit 3: *Stipulation Agreement and Consent to Discipline*, filed November 21, 2017(see Exhibit 5-2); and,

d. Examiner's Exhibit A: Public Censure, issued December 31, 2017 (see Exhibit 5-3).

11. Upon completion of the evidentiary show cause hearing and, upon deliberation and the unanimous vote of the eight (8) participating members of the Commission, the Commission found:

a. Respondent violated paragraph 12 of the *Stipulation Agreement and Consent to Discipline* filed November 21, 2017;

b. Respondent obstructed Commission business;

c. Respondent committed contempt of the Commission; and,

d. the Supreme Court should be petitioned to enforce the terms of paragraph 15 of the *Stipulation Agreement and Consent to Discipline*, to include automatic imposition of the deferred three-week suspension without pay.

WHEREFORE, Petitioner respectfully requests this Court accept its findings and enforce paragraph 15 of the *Stipulation Agreement and Consent to Discipline*, to include automatic imposition of the deferred three-week suspension without pay.

JUDICIAL STANDARDS COMMISSION



---

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

DEBORAH L. BORIO  
*Senior Investigative Trial Counsel*  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
Telephone: (505) 222-9353

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed and served via the Supreme Court's electronic File and Serve system, addressed to Steven L. McConnell, Esq., Counsel for Respondent, on this 13<sup>th</sup> day of February, 2019.



---


DEBORAH L. BORIO, ESQ.

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G. WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041  
Inquiry No. 2017-053

**FILED**  
NOV 21 2017  
NM JUDICIAL  
STANDARDS COMMISSION



STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

THIS MATTER is currently pending before the Judicial Standards Commission (“the Commission”) pursuant to the *Notices of Preliminary Investigation* issued in Inquiry No. 2016-101 on February 21, 2017; Inquiry No. 2016-139 on February 9, 2017; Inquiry Nos. 2017-018 and 2017-041 on April 13, 2017; and, the *Notice of Formal Proceedings* issued in the consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 on June 27, 2017; and the *Notice of Preliminary Investigation* issued on October 18, 2017 in Inquiry No. 2017-053. (See **Exs. A, B, C, D, and E**, respectively)

This *Stipulation Agreement and Consent to Discipline* (“*Stipulation*”) is entered into by and between the Judicial Standards Commission and Hon. Warren G. Walton (“Respondent”). Respondent is represented by Steven L. McConnell, Esq., of Kamm & McConnell, LLC. The parties hereby enter into the following *Stipulation*:

1. Respondent admits that he committing the following acts:
  - a. On or about October 14, 2016, Respondent caused the Defendant in the case of *State v. Michael Malcom*, M9-MR-2015-00081, to call Respondent following Respondent’s *ex parte* communication with Defendant’s mother. Respondent told the Defendant that he (Respondent) was making a report concerning Defendant’s case, that Defendant’s case had not been handled properly, and that an investigator may or may

**Exhibit 1**

not be calling him. At the time of the *ex parte* communication, Respondent knew that Defendant's case was still pending before Respondent and that Defendant was represented by counsel.

b. On or about October 14, 2016, Respondent initiated an *ex parte* communication with the Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, while the case was still pending before Respondent and the Defendant was represented by counsel, requesting the Defendant's phone number, and stating that he (Respondent) was making a report to a State agency about the improper handling of her son's case, that an investigator may or may not be calling her, and that it would be favorable to her son's case.

c. On or after about October 14, 2016, after Respondent had *ex parte* communications with Defendant and Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, Respondent failed to notify Defendant's counsel and the prosecutor of the substance of the *ex parte* communication, failed to give the parties an opportunity to respond, and failed to recuse from the case until June 30, 2017.

d. On or about August 22, 2016, Respondent quashed a bench warrant in the matter of *State v. Christina Irvin*, M9-MR-2016-00176, after engaging in an *ex parte* communication with the defendant's father, who requested the bench warrant be quashed. Respondent failed to make provision promptly to notify the parties of the substance of the *ex parte* communication and failed to give the parties an opportunity to respond.

e. On or about May 26, 2016, Respondent misused the contempt power when he issued *Order[s] to Show Cause* to attorneys Ray Floersheim and Sarah Montoya for "Failure to appear for Court Scheduled hearings," when no dates of hearings that the

attorneys allegedly failed to appear for were indicated in the show cause orders because Respondent's purpose for the show cause hearing was to discuss scheduling issues and not because of any contemptuous behavior by the attorneys.

f. On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, Respondent granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter, Respondent failed to provide notice or an opportunity for opposing counsel to be heard on the matter, and opposing counsel was not informed of the continuance until the morning of trial when he appeared with his subpoenaed witnesses.

g. On or about July 31, 2015, Respondent violated the due process of defendants when he granted blanket continuances for a number of hearings based upon an *ex parte* communication via e-mail from a New Mexico State Police officer, when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.

h. On or about November 3, 2016, the morning of trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which Respondent had recused, Respondent inserted himself in the area where members of the jury panel were circulating to set up chairs for the prospective jurors.

i. On various occasions between about April 2015 and November 2016, Respondent called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with his (Respondent's) personal cell phone number, told them to call if they needed anything and/or told them to provide Respondent's cell number to the attorneys, and subsequently engaged in *ex parte* communications with

staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, Respondent failed to make provision promptly to notify all other parties of the substance of the *ex parte* communications and failed to give the other parties an opportunity to respond.

2. Respondent does not contest that the Commission has sufficient facts and evidence to prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts in paragraph 1a-i above, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-206(A), 21-209(A), 21-210(A), and 21-211(A) and (C) NMRA 2012.

3. While this matter was pending, a *Notice of Preliminary Investigation* was issued in Inquiry No. 2017-053. The Commission and Respondent agree that both matters will be resolved in this *Stipulation*.

4. With regard to the allegations in Inquiry No. 2017-053, Respondent does not contest that the Commission can prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts detailed in paragraph 4a-d below, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B), 21-209(A), and 21-212(A) NMRA 2012.

a. In about 2013 and 2014, Respondent had *ex parte* communications with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before Respondent at the time, as well as had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.

b. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, Respondent



commonly had *ex parte* communications with attorneys who called Respondent at the Court, as well as at home, and/or contacted Respondent in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, Respondent failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.

c. In or about 2013 and 2014, Respondent failed to cooperate with AOC supervisory personnel and clerks, who were at Respondent's Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and other operational problems. By example, Respondent: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to him after the clerks had been directed by the SOMs not to put these calls through; was obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

d. In or about 2013 and 2014, Respondent allowed his judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, Respondent often commented that he needed to win the election and made statements to the effect that he would continue to take calls from attorneys and officers because he needed to win the election, or that he needed to accommodate the public in order to win the election. Further, it is alleged that, because of Respondent's fear of

losing votes, he failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

5. Respondent consents to imposition of the following discipline by the Supreme

Court:

a. **Formal mentorship with supervised probation.** The Judicial Standards Commission will recommend the mentor/probation supervisor for the Supreme Court's approval and appointment. The mentorship/supervised probation shall begin upon the Supreme Court's appointment of the mentor/probation supervisor and shall be in effect for the remainder of Respondent's current term. The mentor/probation supervisor shall report on the progress and outcome of the mentorship and probation program to the Supreme Court and the Commission.

b. **Public censure**, which shall be published in the *New Mexico Bar Bulletin*.

c. **Enrollment in, and successful completion of, National Judicial College (NJC) webcast courses** *Ethics and Judging: Reaching Higher Ground*, scheduled for May 14-June 29, 2018; and, *Special Considerations for the Rural Court Judge*, scheduled for September 10-October 26, 2018. This will be at Respondent's own expense. Respondent must promptly provide proof of completion to the Supreme Court and the Commission.

d. **Three-week suspension without pay**; however, imposition of the three weeks of suspension without pay will be deferred on the condition that Respondent successfully complete the National Judicial College courses, mentorship and probation.

6. The Commission will file under seal with the New Mexico Supreme Court, pursuant to Rule 27-104(B) NMRA 2011, a *Petition to Accept Stipulation Agreement and Consent to Discipline ("Petition")*, attaching a copy of this *Stipulation*.

7. Upon granting the *Petition*, pursuant to Supreme Court Rules, the matter will be unsealed.

8. The Commission agrees to abate the current proceedings in consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 and in Inquiry No. 2017-053 upon granting of the *Petition* by the Supreme Court.

9. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

10. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

11. Upon successful completion of the terms of the *Stipulation*, the Commission will close these matters.

12. Respondent shall not make any misrepresentations to the media concerning these matters (consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and Inquiry No. 2017-053), the facts and circumstances of Respondent's *Stipulation*, or the Commission's proceedings.

13. This document is not enforceable unless fully executed by all parties.

14. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

15. Non-Compliance and Breach. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in the *Notice of Preliminary Investigation* issued in Inquiry No. 2017-053, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt. In addition, the three-week suspension without pay detailed in paragraph 5d above will be automatically imposed. Further, if Respondent's conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, Respondent agrees that he shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

16. The terms and conditions contained in this *Stipulation* are mutually acceptable to and agreed upon by all parties.

17. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

#### RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation*. I have had the opportunity to discuss this matter and my rights with a lawyer. I understand that by entering into this *Stipulation*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses regarding those issues. I stipulate that the Commission has sufficient evidence to prove the facts presented in this *Stipulation* and to conclude that individually and taken together the facts constitute willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct, and provide sufficient basis for the New Mexico Supreme Court to impose discipline against me pursuant to Article VI, Section 32 of the New Mexico Constitution.

I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation*, I am agreeing to abide by all the terms and provisions contained herein. I understand that if I violate any terms or provisions of this *Stipulation* in any manner, I agree, acknowledge, and accept that all allegations lodged against me in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in Inquiry No. 2017-053, will be considered admitted by me as fact, and that the Commission shall re-initiate all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation* was executed. I also understand and agree that the three-week suspension without pay will be automatically imposed. I further understand that if my conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, I agree that I shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.

I acknowledge that my conduct concerning the enumerated facts to which I admit and the violations of the specified rules of Code of Judicial Conduct which I do not contest, provide sufficient bases for the imposition of discipline pursuant to Article VI, Section 32 of the New Mexico Constitution, as agreed to in this *Stipulation*, and are material to the Commission's deliberations and ultimate acceptance of this *Stipulation Agreement and Consent to Discipline*.



Dated: 11-8-17

HON. WARREN G. WALTON  
*Respondent*

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/17

STEVEN L. MCCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.

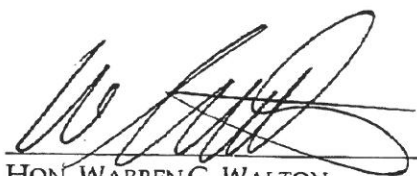
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DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

Dated: 11/21/17



**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.



Dated: 11-8-17

HON. WARREN G. WALTON  
*Respondent*

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/17

STEVEN L. MCCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/2017

DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.

*Joyce Bustos*

Dated: 11/21/17

JOYCE BUSTOS  
Chair

*Randy Roybal*

Dated: 11/21/17

RANDALL D. ROYBAL, ESQ.  
Executive Director & General Counsel



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

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RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

February 21, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 21 2017

NM JUDICIAL  
STANDARDS COMMISSION

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

*Re: Inquiry No. 2016-101; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that:

1. In or about May - July 2016, you issued Orders to Show Cause to Ray Floersheim and Sarah Montoya for the purpose of having the attorneys appear in court to discuss scheduling issues or for some other purpose for which a show cause order is inappropriate, and subsequently told the attorneys to disregard the Orders. The Orders did not contain court case numbers and no show cause hearings were ever held; and,
2. On various occasions, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything at all and/or to provide your cell number to the attorneys so they could call you and, further, that you engaged in *ex parte* communications which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

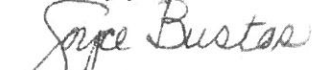
Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit A



regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

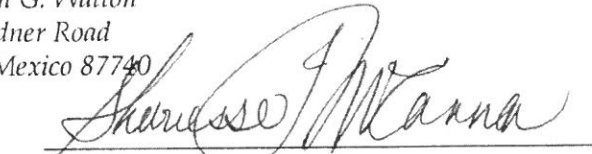


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 21<sup>st</sup> day of February 2017, by certified mail, return receipt requested to:

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740



---

SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NM|SC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

February 9, 2017

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

*Re: Inquiry No. 2016-139; Notice of Preliminary Investigation*

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 10 2017

NM JUDICIAL  
STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "R. Roybal", written over the stamp area.

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that you violated the due process of multiple parties:

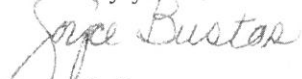
1. On or about July 11, 2014, when you granted the prosecuting officer's *Motion to Continue* a trial in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, when the opposing party was not contacted for his position and was not provided notice or an opportunity to be heard on the matter and, further, the opposing party was not notified that the trial had been continued until July 18, 2014, which was the day for which the trial had been scheduled.
2. On or about July 31, 2015, when you granted blanket continuances in several hearings based upon an e-mail request from a New Mexico State Police Officer Sharron Duran, although the e-mail did not contain the names and case numbers of the specific cases and did not reflect that opposing parties had been contacted for their respective positions. Further, this occurred after your July 18, 2014 letter to "All Law Enforcement Agencies and Public Defenders" stating you would not grant any continuances without a statement that the opposing party had been contacted and agreed, as it would be *ex parte*.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit B

regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,




Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 10<sup>th</sup> day of February 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740*



---

SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

April 12, 2017

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CONFIDENTIAL

FILED

APR 13 2017

NM JUDICIAL  
STANDARDS COMMISSION

*Re: Inquiry Nos. 2017-018 and 2017-041; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matters came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. On or about May 11, 2016, you called attorney Sarah Montoya on her cell phone to conduct a "little hearing" on speaker phone, after one of Ms. Montoya's clients had shown up in the courtroom, but no case was on the docket and Ms. Montoya was not scheduled to be in court and had no notice of a hearing.
2. On or about August 22, 2016, you had an *ex parte* communication with Jack Irvin, father of the Defendant in *State v. Christina Irvin*, M9-MR-2016-0176, and, based upon your *ex parte* communication, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard on the matter.
3. On or about August 15, 2016, you failed to promptly and efficiently conduct hearings in ten (10) cases—five (5) of which were preliminary examinations—for which the appointed attorney, Sarah Montoya, was in trial in the district court and had filed notice of such, and for which attorney Ray Floersheim was prepared to cover. Despite Mr. Floersheim's presence and ability to cover the cases, you made a statement to the effect of: "Since Sarah Montoya is not here, we can't conduct any of her cases," which interfered with the administration of justice, created unnecessary and avoidable delays,

Exhibit C

and exacerbated the court's scheduling issues. The following ten (10) cases were affected:

- *State v. Albert Garcia*, M9-DR-2014-00019
- *State v. Jay D. Muse*, M9-FR-2016-00030
- *State v. Vanessa M. Sanchez*, M9-FR-2016-00102
- *State v. April Salazar*, M9-FR-2016-00018
- *State v. Francisca Duarte*, M9-FR – 2016-00135
- *State v. Chanel Esckelson*, M9-FR-2016-00139
- *State v. Toby Muniz*, M9-MR-2015-00397
- *State v. Toby Muniz*, M9-MR-2016-00225
- *State v. Shaun Ortega*, M9-VM-2015-00033
- *State v. Andrew Martinez*, M9-VM-2016-00016

4. On or about October 14, 2016, you called Sharon Malcom—mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—and informed her that you were going to be filing a case with a State agency because nothing in her son's case had been handled correctly. Further, it is alleged that you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable for her son's case if she spoke with the investigator.

5. On or about October 14, 2016, you called Michael Malcom—Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—who left a message for you with his name and cell phone number, after you attempted to contact him through his mother. Further, it is alleged that you told the Defendant: he had not gotten a proper deal; that his attorney did not represent him well and she had not done her job; an investigator might call him and it would only turn out favorably for his case; and, that he [the Defendant] was not to tell anyone that you had spoken with him.

6. On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, the jurors who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within **twenty-one (21) days** of your receipt of this letter.

Sincerely yours,

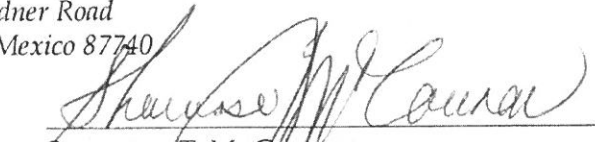


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 17<sup>th</sup> day of April 2017, by certified mail, return receipt requested to:


*Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041

**FILED**  
JUN 27 2017   
NM JUDICIAL  
STANDARDS COMMISSION

NOTICE OF FORMAL PROCEEDINGS

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Rule 15 NMRA 2010 of the Judicial Standards Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or about October 14, 2016, you called, or caused Michael Malcom to call you, after you contacted his mother requesting his phone number. Further, you had an *ex parte* conversation with Michael Malcom, who was represented by counsel and whose case, *State v. Michael Malcom*, M9-MR-2015-00081, was pending before you—in which you informed the Defendant that: his attorney had not represented him well in his case and had not done her job; he had not gotten a proper deal; an investigator might call him and it would only turn out favorably for his case; and, he was not to tell anyone that you had spoken with him.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.

Exhibit D

## COUNT II

On or about October 14, 2016, you initiated an *ex parte* communication by calling Sharon Malcom, mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081 – a case that was pending before you – in which you informed Mrs. Malcom that nothing in her son’s case had been handled correctly and you were going to be initiating a case with a State agency. Further, you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable to her son’s case if she spoke with the investigator.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.

## COUNT III

On or after about October 14, 2016, after you had *ex parte* communications with the Defendant and his mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, you failed to recuse from the case and failed to make provision to promptly notify the parties of the substance of your conversations and give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-211(A) and (C) NMRA 2012, and constitutes willful misconduct in office.

## COUNT IV

On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, members of the jury panel who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.



#### COUNT V

On or about August 22, 2016, in the case of *State v. Christina Irvin*, M9-MR-2016-00176, you permitted and engaged in an *ex parte* communication with Jack Irvin, father of the Defendant, and, as a result, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard. Further, you failed to make provision to promptly notify the parties of the substance of your conversation with Mr. Irvin and failed to give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VI

On or about May 26, 2016, you issued an *Order to Show Cause* to Ray Floersheim and to Sarah Montoya for "Failure to appear for Court Scheduled hearings," when the purpose of the show cause hearing was not because of allegedly contemptuous behavior, but for the purpose of having the attorneys appear so you could discuss scheduling issues.

Such conduct violates Rules 21-101, 21-102, 21-103, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VII

On or about July 31, 2015, you granted blanket continuances for an untold number of hearings based upon an *ex parte* e-mail from a New Mexico State Police officer when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

COUNT VIII

On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, you granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter and you did not provide notice or an opportunity for opposing counsel to be heard on the matter.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

COUNT IX

On various occasions between about April 2015 and November 2017, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything and/or told them to provide your cell number to the attorneys so they could call you and, further, you engaged in *ex parte* communications with staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:

Judicial Standards Commission  
P.O. Box 27248  
Albuquerque, New Mexico 87125-7248

Your answer should be legible and your signature must be verified.

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION

By: Joyce Bustos  
Joyce Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed via certified U.S. mail, return receipt requested, on this 27<sup>th</sup> day of June, 2017, to the following:

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

Shariessa T. McCannon  
SHARIESSE T. MCCANNON  
Clerk of the Commission



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

October 17, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**FILED**

OCT 18 2017

NM JUDICIAL

STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "RM", written over the stamp area.

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

*Re: Inquiry No. 2017-053; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. In about 2013 and 2014, you had *ex parte* communications on multiple occasions with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before you at the time, and that you also had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.
2. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, you commonly had *ex parte* communications with attorneys who called you at the Court, as well as at your home, and/or contacted you in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, you failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.
3. In or about 2013 and 2014, you failed to cooperate with AOC supervisory personnel and clerks, who were at your Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and


Exhibit E

other operational problems at your Court. By example, you: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to you after the clerks had been directed by the SOMs not to put these calls through to you; were obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

4. In or about 2013 and 2014, allowed your judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, you often commented that you needed to win the election and made statements to the effect that you would continue to take calls from attorneys and officers because you needed to win the election, or that you needed to accommodate the public in order to win the election. Further, it is alleged that, because of your fear of losing votes, you failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

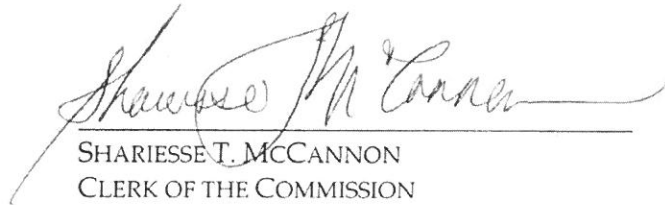


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 18<sup>th</sup> day of October 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

  
Joey D. Moya

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

**S-1-SC-36763**

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

FILED UNDER SEAL  
PURSUANT TO 27-104(B) NMRA 2017

PETITION TO ACCEPT STIPULATION AGREEMENT AND  
CONSENT TO DISCIPLINE

JUDICIAL STANDARDS COMMISSION  
RANDALL D. ROYBAL  
DEBORAH BORIO  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
Telephone: (505) 222-9353  
Fax: (505) 222-9358

*Counsel for Petitioner*

STEVEN L. McCONNELL, ESQ.  
KAMM & McCONNELL, L.L.C.  
300 Cook Avenue  
Raton, NM 87740-1148  
Telephone: (575) 445-5575  
Fax: (575) 445-5621

*Counsel for Respondent*

**Exhibit 2**

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

FILED UNDER SEAL  
PURSUANT TO 27-104(B) NMRA 2017

PETITION TO ACCEPT STIPULATION AGREEMENT AND  
CONSENT TO DISCIPLINE

The Judicial Standards Commission of the State of New Mexico (“Petitioner” or “Commission”), through the undersigned counsel, respectfully petitions the Supreme Court for an order approving the *Stipulation Agreement and Consent to Discipline* (“*Stipulation*”), attached hereto as Exhibit 1, in which Respondent, Hon. Warren G. Walton, consents to discipline from the Supreme Court. In addition, the Petitioner



requests the Court unseal the file in this matter, pursuant to Rule 27-104(B) NMRA 2017.

1. Petitioner invokes its jurisdiction pursuant to the Commission's power to recommend the discipline of judges, and the Supreme Court's power to discipline judges under Article VI, Section 32 of the New Mexico Constitution; the Court's power of superintending control under Article VI, Section 3 of the New Mexico Constitution; and, Rule 38 of the Judicial Standards Commission's Rules.

2. On February 21, 2017, the Commission issued a *Notice of Preliminary Investigation* to Respondent in Inquiry Number 2016-101. (See Exhibit A to Exhibit 1)

3. On February 9, 2017, the Commission issued a *Notice of Preliminary Investigation* to Respondent in Inquiry Number 2016-139. (See Exhibit B to Exhibit 1)

4. On April 13, 2017, the Commission issued a *Notice of Preliminary Investigation* to Respondent in consolidated Inquiry Numbers 2017-018 and 2017-041. (See Exhibit C to Exhibit 1)

5. On June 27, 2017, the Commission issued a *Notice of Formal Proceedings* to Respondent in consolidated Inquiry Numbers 2016-101, 2016-139, 2017-018 and 2017-041. (See Exhibit D to Exhibit 1)

6. On October 18, 2017, the Commission issued a *Notice of Preliminary Investigation* to Respondent in Inquiry Number 2017-053. (See Exhibit E to Exhibit 1)

7. On November 21, 2017, the Commission entered into a *Stipulation Agreement and Consent to Discipline* (“*Stipulation*”) with Respondent (Exhibit 1), which provides in pertinent part the following:

A. Respondent consents to imposition of the following discipline by the Supreme Court:

(1) **Formal mentorship with supervised probation.** The Judicial Standards Commission will recommend the mentor/probation supervisor for the Supreme Court’s approval and appointment. The mentorship/supervised probation shall begin upon the Supreme Court’s appointment of the mentor/probation supervisor and shall be in effect for the remainder of Respondent’s current term. The mentor/probation supervisor shall report on the progress and outcome of the mentorship and probation program to the Supreme Court and the Commission.

(2) **Public censure**, which shall be published in the *New Mexico Bar Bulletin*.

(3) **Enrollment in, and successful completion of, National Judicial College webcast courses** *Ethics and Judging: Reaching Higher Ground*, scheduled for May 14–June 29, 2018; and, *Special Considerations for the Rural Court Judge*, scheduled for September 10–October 26, 2018. This will be at Respondent’s own expense. Respondent must promptly provide proof of completion to the Supreme Court and the Commission.

(4) **Three-week suspension without pay**; however, imposition of the three weeks of suspension without pay will be deferred on the condition that Respondent successfully complete the National Judicial College courses, mentorship and probation.

B. Regarding Inquiry Numbers 2016-101, 2016-139, 2017-018 and 2017-041, Respondent admits that he committed the following acts:

(1) On or about October 14, 2016, Respondent caused the Defendant in the case of *State v. Michael Malcom*, M9-MR-2015-00081, to call Respondent following Respondent’s *ex parte* communication with Defendant’s mother. Respondent told the Defendant that he (Respondent) was making a report concerning Defendant’s case, that Defendant’s case had not been handled properly, and that an investigator may or may not be calling him. At the time of the *ex parte* communication, Respondent knew that Defendant’s case was still pending

before Respondent and that Defendant was represented by counsel;

(2) On or about October 14, 2016, Respondent initiated an *ex parte* communication with the Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, while the case was still pending before Respondent and the Defendant was represented by counsel, requesting the Defendant's phone number, and stating that he (Respondent) was making a report to a State agency about the improper handling of her son's case, that an investigator may or may not be calling her, and that it would be favorable to her son's case;

(3) On or after about October 14, 2016, after Respondent had *ex parte* communications with Defendant and Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, Respondent failed to notify Defendant's counsel and the prosecutor of the substance of the *ex parte* communication, failed to give the parties an opportunity to respond, and failed to recuse from the case until June 30, 2017;

(4) On or about August 22, 2016, Respondent quashed a bench warrant in the matter of *State v. Christina Irvin*, M9-MR-2016-00176, after engaging in an *ex parte* communication with the defendant's father, who requested the bench warrant be quashed. Respondent failed to make provision promptly to notify the parties of the substance of the *ex parte* communication and failed to give the parties an opportunity to respond;

(5) On or about May 26, 2016, Respondent misused the contempt power when he issued *Order[s] to Show Cause* to attorneys Ray Floersheim and Sarah Montoya for "Failure to appear for Court Scheduled hearings," when no dates of hearings that the attorneys allegedly failed to appear for were indicated in the show cause orders because Respondent's purpose for the show cause hearing was to discuss scheduling issues and not because of any contemptuous behavior by the attorneys;

(6) On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, Respondent granted the prosecuting officer's *Motion to Continue* a trial when opposing

counsel had not been contacted for his position on the matter, Respondent failed to provide notice or an opportunity for opposing counsel to be heard on the matter, and opposing counsel was not informed of the continuance until the morning of trial when he appeared with his subpoenaed witnesses;

(7) On or about July 31, 2015, Respondent violated the due process of defendants when he granted blanket continuances for a number of hearings based upon an *ex parte* communication via e-mail from a New Mexico State Police officer, when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances;

(8) On or about November 3, 2016, the morning of trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which Respondent had recused, Respondent inserted himself in the area where members of the jury panel were circulating to set up chairs for the prospective jurors; and,

(9) On various occasions between about April 2015 and November 2016, Respondent called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with his (Respondent's) personal cell phone number, told them to call if they needed anything and/or told them to provide Respondent's cell number to the attorneys, and subsequently engaged in *ex parte* communications with staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, Respondent failed to make provision promptly to notify all other parties of the substance of the *ex parte* communications and failed to give the other parties an opportunity to respond.

C. Respondent does not contest that the Commission has sufficient facts and evidence to prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts in paragraph 7B(1)-(9) above, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-206(A), 21-209(A), 21-210(A), and 21-211(A) and (C) NMRA 2012.

D. With regard to the allegations in Inquiry No. 2017-053, Respondent does not contest that the Commission can prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts detailed in paragraph 7D(1)-(4) below, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B), 21-209(A), and 21-212(A) NMRA 2012.

(1) In about 2013 and 2014, Respondent had *ex parte* communications with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before Respondent at the time, as well as had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.

(2) In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, Respondent commonly had *ex parte* communications with attorneys who called Respondent at the Court, as well as at home, and/or contacted Respondent in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of



scheduling, Respondent failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.

(3) In or about 2013 and 2014, Respondent failed to cooperate with AOC supervisory personnel and clerks, who were at Respondent's Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and other operational problems. By example, Respondent: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to him after the clerks had been directed by the SOMs not to put these calls through; was obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and

further inefficiencies by unilaterally changing processes if a clerk complained about them.

(4) In or about 2013 and 2014, Respondent allowed his judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, Respondent often commented that he needed to win the election and made statements to the effect that he would continue to take calls from attorneys and officers because he needed to win the election, or that he needed to accommodate the public in order to win the election. Further, it is alleged that, because of Respondent's fear of losing votes, he failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

8. Upon Order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

9. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court grant this Petition.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's Petition, approving the *Stipulation*

*Agreement and Consent to Discipline* and unsealing the file in this matter pursuant to Rule 27-104(B) NMRA 2017.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



---

RANDALL D. ROYBAL  
Executive Director & General Counsel

DEBORAH BORIO  
Investigative Trial Counsel  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
Telephone: (505) 222-9353  
Fax: (505) 222-9358

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed and served via the Supreme Court's electronic File and Serve system, addressed to Steven L. McConnell, Esq., Counsel for Respondent, on this 22<sup>nd</sup> day of November, 2017.



---

for DEBORAH BORIO

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G. WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041  
Inquiry No. 2017-053

**FILED**  
NOV 21 2017  
NM JUDICIAL  
STANDARDS COMMISSION



STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

THIS MATTER is currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notices of Preliminary Investigation* issued in Inquiry No. 2016-101 on February 21, 2017; Inquiry No. 2016-139 on February 9, 2017; Inquiry Nos. 2017-018 and 2017-041 on April 13, 2017; and, the *Notice of Formal Proceedings* issued in the consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 on June 27, 2017; and the *Notice of Preliminary Investigation* issued on October 18, 2017 in Inquiry No. 2017-053. (See **Exs. A, B, C, D, and E**, respectively)

This *Stipulation Agreement and Consent to Discipline* ("Stipulation") is entered into by and between the Judicial Standards Commission and Hon. Warren G. Walton ("Respondent"). Respondent is represented by Steven L. McConnell, Esq., of Kamm & McConnell, LLC. The parties hereby enter into the following *Stipulation*:

1. Respondent admits that he committing the following acts:
  - a. On or about October 14, 2016, Respondent caused the Defendant in the case of *State v. Michael Malcom*, M9-MR-2015-00081, to call Respondent following Respondent's *ex parte* communication with Defendant's mother. Respondent told the Defendant that he (Respondent) was making a report concerning Defendant's case, that Defendant's case had not been handled properly, and that an investigator may or may

Exhibit 1

not be calling him. At the time of the *ex parte* communication, Respondent knew that Defendant's case was still pending before Respondent and that Defendant was represented by counsel.

b. On or about October 14, 2016, Respondent initiated an *ex parte* communication with the Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, while the case was still pending before Respondent and the Defendant was represented by counsel, requesting the Defendant's phone number, and stating that he (Respondent) was making a report to a State agency about the improper handling of her son's case, that an investigator may or may not be calling her, and that it would be favorable to her son's case.

c. On or after about October 14, 2016, after Respondent had *ex parte* communications with Defendant and Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, Respondent failed to notify Defendant's counsel and the prosecutor of the substance of the *ex parte* communication, failed to give the parties an opportunity to respond, and failed to recuse from the case until June 30, 2017.

d. On or about August 22, 2016, Respondent quashed a bench warrant in the matter of *State v. Christina Irvin*, M9-MR-2016-00176, after engaging in an *ex parte* communication with the defendant's father, who requested the bench warrant be quashed. Respondent failed to make provision promptly to notify the parties of the substance of the *ex parte* communication and failed to give the parties an opportunity to respond.

e. On or about May 26, 2016, Respondent misused the contempt power when he issued *Order[s] to Show Cause* to attorneys Ray Floersheim and Sarah Montoya for "Failure to appear for Court Scheduled hearings," when no dates of hearings that the

attorneys allegedly failed to appear for were indicated in the show cause orders because Respondent's purpose for the show cause hearing was to discuss scheduling issues and not because of any contemptuous behavior by the attorneys.

f. On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, Respondent granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter, Respondent failed to provide notice or an opportunity for opposing counsel to be heard on the matter, and opposing counsel was not informed of the continuance until the morning of trial when he appeared with his subpoenaed witnesses.

g. On or about July 31, 2015, Respondent violated the due process of defendants when he granted blanket continuances for a number of hearings based upon an *ex parte* communication via e-mail from a New Mexico State Police officer, when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.

h. On or about November 3, 2016, the morning of trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which Respondent had recused, Respondent inserted himself in the area where members of the jury panel were circulating to set up chairs for the prospective jurors.

i. On various occasions between about April 2015 and November 2016, Respondent called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with his (Respondent's) personal cell phone number, told them to call if they needed anything and/or told them to provide Respondent's cell number to the attorneys, and subsequently engaged in *ex parte* communications with

staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, Respondent failed to make provision promptly to notify all other parties of the substance of the *ex parte* communications and failed to give the other parties an opportunity to respond.

2. Respondent does not contest that the Commission has sufficient facts and evidence to prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts in paragraph 1a-i above, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-206(A), 21-209(A), 21-210(A), and 21-211(A) and (C) NMRA 2012.

3. While this matter was pending, a *Notice of Preliminary Investigation* was issued in Inquiry No. 2017-053. The Commission and Respondent agree that both matters will be resolved in this *Stipulation*.

4. With regard to the allegations in Inquiry No. 2017-053, Respondent does not contest that the Commission can prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts detailed in paragraph 4a-d below, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B), 21-209(A), and 21-212(A) NMRA 2012.

a. In about 2013 and 2014, Respondent had *ex parte* communications with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before Respondent at the time, as well as had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.

b. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, Respondent

commonly had *ex parte* communications with attorneys who called Respondent at the Court, as well as at home, and/or contacted Respondent in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, Respondent failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.

c. In or about 2013 and 2014, Respondent failed to cooperate with AOC supervisory personnel and clerks, who were at Respondent's Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and other operational problems. By example, Respondent: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to him after the clerks had been directed by the SOMs not to put these calls through; was obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

d. In or about 2013 and 2014, Respondent allowed his judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, Respondent often commented that he needed to win the election and made statements to the effect that he would continue to take calls from attorneys and officers because he needed to win the election, or that he needed to accommodate the public in order to win the election. Further, it is alleged that, because of Respondent's fear of



losing votes, he failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

5. Respondent consents to imposition of the following discipline by the Supreme Court:

a. **Formal mentorship with supervised probation.** The Judicial Standards Commission will recommend the mentor/probation supervisor for the Supreme Court's approval and appointment. The mentorship/supervised probation shall begin upon the Supreme Court's appointment of the mentor/probation supervisor and shall be in effect for the remainder of Respondent's current term. The mentor/probation supervisor shall report on the progress and outcome of the mentorship and probation program to the Supreme Court and the Commission.

b. **Public censure**, which shall be published in the *New Mexico Bar Bulletin*.

c. **Enrollment in, and successful completion of, National Judicial College (NJC) webcast courses** *Ethics and Judging: Reaching Higher Ground*, scheduled for May 14-June 29, 2018; and, *Special Considerations for the Rural Court Judge*, scheduled for September 10-October 26, 2018. This will be at Respondent's own expense. Respondent must promptly provide proof of completion to the Supreme Court and the Commission.

d. **Three-week suspension without pay**; however, imposition of the three weeks of suspension without pay will be deferred on the condition that Respondent successfully complete the National Judicial College courses, mentorship and probation.

6. The Commission will file under seal with the New Mexico Supreme Court, pursuant to Rule 27-104(B) NMRA 2011, a *Petition to Accept Stipulation Agreement and Consent to Discipline ("Petition")*, attaching a copy of this *Stipulation*.

7. Upon granting the *Petition*, pursuant to Supreme Court Rules, the matter will be unsealed.

8. The Commission agrees to abate the current proceedings in consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 and in Inquiry No. 2017-053 upon granting of the *Petition* by the Supreme Court.

9. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

10. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

11. Upon successful completion of the terms of the *Stipulation*, the Commission will close these matters.

12. Respondent shall not make any misrepresentations to the media concerning these matters (consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and Inquiry No. 2017-053), the facts and circumstances of Respondent's *Stipulation*, or the Commission's proceedings.

13. This document is not enforceable unless fully executed by all parties.

14. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

15. Non-Compliance and Breach. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in the *Notice of Preliminary Investigation* issued in Inquiry No. 2017-053, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt. In addition, the three-week suspension without pay detailed in paragraph 5d above will be automatically imposed. Further, if Respondent's conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, Respondent agrees that he shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

16. The terms and conditions contained in this *Stipulation* are mutually acceptable to and agreed upon by all parties.

17. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

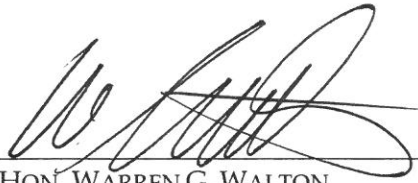
#### **RESPONDENT'S REVIEW & APPROVAL**

I have read and understand this *Stipulation*. I have had the opportunity to discuss this matter and my rights with a lawyer. I understand that by entering into this *Stipulation*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses regarding those issues. I stipulate that the Commission has sufficient evidence to prove the facts presented in this *Stipulation* and to conclude that individually and taken together the facts constitute willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct, and provide sufficient basis for the New Mexico Supreme Court to impose discipline against me pursuant to Article VI, Section 32 of the New Mexico Constitution.

I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation*, I am agreeing to abide by all the terms and provisions contained herein. I understand that if I violate any terms or provisions of this *Stipulation* in any manner, I agree, acknowledge, and accept that all allegations lodged against me in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in Inquiry No. 2017-053, will be considered admitted by me as fact, and that the Commission shall re-initiate all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation* was executed. I also understand and agree that the three-week suspension without pay will be automatically imposed. I further understand that if my conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, I agree that I shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.

I acknowledge that my conduct concerning the enumerated facts to which I admit and the violations of the specified rules of Code of Judicial Conduct which I do not contest, provide sufficient bases for the imposition of discipline pursuant to Article VI, Section 32 of the New Mexico Constitution, as agreed to in this *Stipulation*, and are material to the Commission's deliberations and ultimate acceptance of this *Stipulation Agreement and Consent to Discipline*.



HON. WARREN G. WALTON  
*Respondent*

Dated: 11-8-17

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.



STEVEN L. MCCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

Dated: 11/8/17

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.

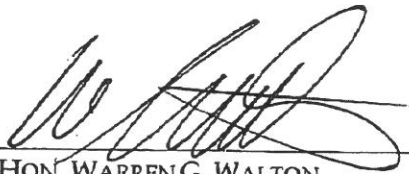
see next page /  
DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

Dated: 11/21/17



**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.

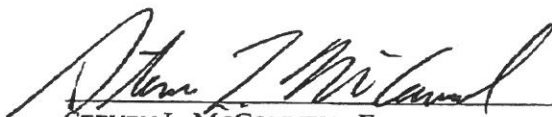


Dated: 11-8-17

HON. WARREN G. WALTON  
*Respondent*

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.

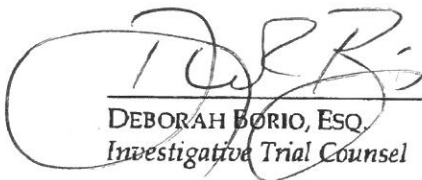


Dated: 11/8/17

STEVEN L. McCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/2017

DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.

*Joyce Bustos*

JOYCE BUSTOS  
Chair

Dated: 11/21/17

*Roybal*

RANDALL D. ROYBAL, ESQ.  
Executive Director & General Counsel

Dated: 11/21/17



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
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RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

February 21, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 21 2017

NM JUDICIAL  
STANDARDS COMMISSION

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

Re: *Inquiry No. 2016-101; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that:

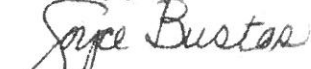
1. In or about May - July 2016, you issued Orders to Show Cause to Ray Floersheim and Sarah Montoya for the purpose of having the attorneys appear in court to discuss scheduling issues or for some other purpose for which a show cause order is inappropriate, and subsequently told the attorneys to disregard the Orders. The Orders did not contain court case numbers and no show cause hearings were ever held; and,
2. On various occasions, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything at all and/or to provide your cell number to the attorneys so they could call you and, further, that you engaged in *ex parte* communications which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit A

regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

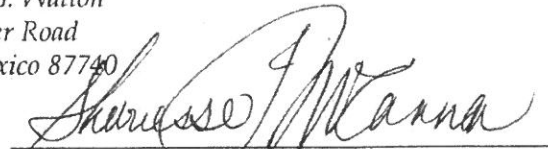


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 21<sup>st</sup> day of February 2017, by certified mail, return receipt requested to:

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740



SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION





STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ  
Investigative Trial Counsel

DEBORAH BORIO  
Investigative Trial Counsel

February 9, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 10 2017

NM JUDICIAL  
STANDARDS COMMISSION

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

Re: Inquiry No. 2016-139; Notice of Preliminary Investigation

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that you violated the due process of multiple parties:

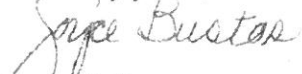
1. On or about July 11, 2014, when you granted the prosecuting officer's *Motion to Continue* a trial in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, when the opposing party was not contacted for his position and was not provided notice or an opportunity to be heard on the matter and, further, the opposing party was not notified that the trial had been continued until July 18, 2014, which was the day for which the trial had been scheduled.
2. On or about July 31, 2015, when you granted blanket continuances in several hearings based upon an e-mail request from a New Mexico State Police Officer Sharron Duran, although the e-mail did not contain the names and case numbers of the specific cases and did not reflect that opposing parties had been contacted for their respective positions. Further, this occurred after your July 18, 2014 letter to "All Law Enforcement Agencies and Public Defenders" stating you would not grant any continuances without a statement that the opposing party had been contacted and agreed, as it would be *ex parte*.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit B

regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

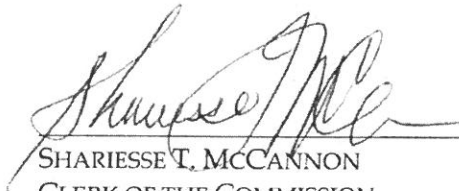


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 10<sup>th</sup> day of February 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton*  
1404 Gardner Road  
Raton, New Mexico 87740



---

SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
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RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

April 12, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CONFIDENTIAL

FILED

APR 13 2017

NM JUDICIAL  
STANDARDS COMMISSION

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

*Re: Inquiry Nos. 2017-018 and 2017-041; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matters came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. On or about May 11, 2016, you called attorney Sarah Montoya on her cell phone to conduct a "little hearing" on speaker phone, after one of Ms. Montoya's clients had shown up in the courtroom, but no case was on the docket and Ms. Montoya was not scheduled to be in court and had no notice of a hearing.
2. On or about August 22, 2016, you had an *ex parte* communication with Jack Irvin, father of the Defendant in *State v. Christina Irvin*, M9-MR-2016-0176, and, based upon your *ex parte* communication, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard on the matter.
3. On or about August 15, 2016, you failed to promptly and efficiently conduct hearings in ten (10) cases—five (5) of which were preliminary examinations—for which the appointed attorney, Sarah Montoya, was in trial in the district court and had filed notice of such, and for which attorney Ray Floersheim was prepared to cover. Despite Mr. Floersheim's presence and ability to cover the cases, you made a statement to the effect of: "Since Sarah Montoya is not here, we can't conduct any of her cases," which interfered with the administration of justice, created unnecessary and avoidable delays,

Exhibit C

and exacerbated the court's scheduling issues. The following ten (10) cases were affected:

- *State v. Albert Garcia*, M9-DR-2014-00019
- *State v. Jay D. Muse*, M9-FR-2016-00030
- *State v. Vanessa M. Sanchez*, M9-FR-2016-00102
- *State v. April Salazar*, M9-FR-2016-00018
- *State v. Francisca Duarte*, M9-FR—2016-00135
- *State v. Chanel Esckelson*, M9-FR-2016-00139
- *State v. Toby Muniz*, M9-MR-2015-00397
- *State v. Toby Muniz*, M9-MR-2016-00225
- *State v. Shaun Ortega*, M9-VM-2015-00033
- *State v. Andrew Martinez*, M9-VM-2016-00016

4. On or about October 14, 2016, you called Sharon Malcom—mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—and informed her that you were going to be filing a case with a State agency because nothing in her son's case had been handled correctly. Further, it is alleged that you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable for her son's case if she spoke with the investigator.

5. On or about October 14, 2016, you called Michael Malcom—Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—who left a message for you with his name and cell phone number, after you attempted to contact him through his mother. Further, it is alleged that you told the Defendant: he had not gotten a proper deal; that his attorney did not represent him well and she had not done her job; an investigator might call him and it would only turn out favorably for his case; and, that he [the Defendant] was not to tell anyone that you had spoken with him.

6. On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, the jurors who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within **twenty-one (21) days** of your receipt of this letter.

Sincerely yours,

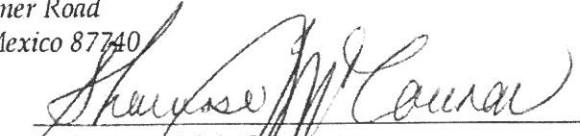


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 13<sup>th</sup> day of April  
2017, by certified mail, return receipt requested to:


*Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041

**FILED**  
JUN 27 2017   
**NM JUDICIAL  
STANDARDS COMMISSION**

NOTICE OF FORMAL PROCEEDINGS

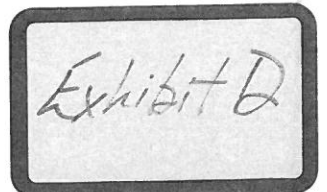
Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Rule 15 NMRA 2010 of the Judicial Standards Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or about October 14, 2016, you called, or caused Michael Malcom to call you, after you contacted his mother requesting his phone number. Further, you had an *ex parte* conversation with Michael Malcom, who was represented by counsel and whose case, *State v. Michael Malcom*, M9-MR-2015-00081, was pending before you—in which you informed the Defendant that: his attorney had not represented him well in his case and had not done her job; he had not gotten a proper deal; an investigator might call him and it would only turn out favorably for his case; and, he was not to tell anyone that you had spoken with him.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.



## COUNT II

On or about October 14, 2016, you initiated an *ex parte* communication by calling Sharon Malcom, mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081 – a case that was pending before you – in which you informed Mrs. Malcom that nothing in her son’s case had been handled correctly and you were going to be initiating a case with a State agency. Further, you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable to her son’s case if she spoke with the investigator.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.

## COUNT III

On or after about October 14, 2016, after you had *ex parte* communications with the Defendant and his mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, you failed to recuse from the case and failed to make provision to promptly notify the parties of the substance of your conversations and give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-211(A) and (C) NMRA 2012, and constitutes willful misconduct in office.

## COUNT IV

On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, members of the jury panel who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT V

On or about August 22, 2016, in the case of *State v. Christina Irvin*, M9-MR-2016-00176, you permitted and engaged in an *ex parte* communication with Jack Irvin, father of the Defendant, and, as a result, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard. Further, you failed to make provision to promptly notify the parties of the substance of your conversation with Mr. Irvin and failed to give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VI

On or about May 26, 2016, you issued an *Order to Show Cause* to Ray Floersheim and to Sarah Montoya for "Failure to appear for Court Scheduled hearings," when the purpose of the show cause hearing was not because of allegedly contemptuous behavior, but for the purpose of having the attorneys appear so you could discuss scheduling issues.

Such conduct violates Rules 21-101, 21-102, 21-103, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VII

On or about July 31, 2015, you granted blanket continuances for an untold number of hearings based upon an *ex parte* e-mail from a New Mexico State Police officer when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.



Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VIII

On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, you granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter and you did not provide notice or an opportunity for opposing counsel to be heard on the matter.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT IX

On various occasions between about April 2015 and November 2017, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything and/or told them to provide your cell number to the attorneys so they could call you and, further, you engaged in *ex parte* communications with staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:

Judicial Standards Commission  
P.O. Box 27248  
Albuquerque, New Mexico 87125-7248

Your answer should be legible and your signature must be verified.

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION

By: Joyce Bustos  
Joyce Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed via certified U.S. mail, return receipt requested, on this 27<sup>th</sup> day of June, 2017, to the following:

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

Shariesse T. McCannon  
SHARIESSE T. MCCANNON  
Clerk of the Commission



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

October 17, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**FILED**

OCT 18 2017

NM JUDICIAL

STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "R. Roybal", written over the stamp area.

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

*Re: Inquiry No. 2017-053; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. In about 2013 and 2014, you had *ex parte* communications on multiple occasions with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before you at the time, and that you also had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.
2. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, you commonly had *ex parte* communications with attorneys who called you at the Court, as well as at your home, and/or contacted you in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, you failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.
3. In or about 2013 and 2014, you failed to cooperate with AOC supervisory personnel and clerks, who were at your Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and

Exhibit E

other operational problems at your Court. By example, you: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to you after the clerks had been directed by the SOMs not to put these calls through to you; were obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

4. In or about 2013 and 2014, allowed your judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, you often commented that you needed to win the election and made statements to the effect that you would continue to take calls from attorneys and officers because you needed to win the election, or that you needed to accommodate the public in order to win the election. Further, it is alleged that, because of your fear of losing votes, you failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

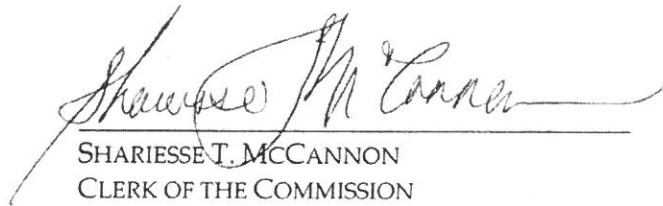


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 18<sup>th</sup> day of October 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

  
Joey D. Moya

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **December 18, 2017**

3                   **NO. S-1-SC-36763**

4                   **INQUIRY CONCERNING A JUDGE**  
5                   **NOS. 2016-101, 2016-139, 2017-018,**  
6                   **2017-041 and 2017-053**

7  
8                   **IN THE MATTER OF HON. WARREN G. WALTON**  
9                   **Magistrate Judge,**  
10                  **County of Colfax, New Mexico**

11   **ORDER**  
12

13                  WHEREAS, this matter came on for consideration by the Court upon the  
14                  Judicial Standards Commission's petition to accept stipulation agreement and  
15                  consent to discipline, the Court having considered the petition and having  
16                  determined that acceptance of the stipulation is in the best interests of the judiciary  
17                  and the public, and the Court being otherwise sufficiently advised; Chief Justice  
18                  Judith K. Nakamura, Justice Petra Jimenez Maes, Justice Edward L. Chávez,  
19                  Justice Charles W. Daniels, and Justice Barbara J. Vigil concurring;

20                  NOW, THEREFORE, IT IS ORDERED that the petition is GRANTED and  
21                  Respondent, Hon. Warren G. Walton, shall abide by all terms of the Stipulation  
22                  Agreement and Consent to Discipline;

23                  IT IS FURTHER ORDERED that Respondent is SUSPENDED WITHOUT  
24                  PAY for three (3) weeks, DEFERRED on the following conditions:

1 A. Respondent shall successfully complete a supervised probation and  
2 formal mentorship for the remainder of his term of office, which shall begin  
3 upon the appointment of the probation supervisor/mentor by this Court. The  
4 Commission shall recommend a probation supervisor/mentor for  
5 consideration and appointment by this Court. The probation  
6 supervisor/mentor shall report to this Court and the Commission on the  
7 progress and outcome of the mentorship; and

8  
9 B. Respondent shall enroll in, and successfully complete, the National Judicial  
10 College webcast courses entitled *Ethics and Judging: Reaching Higher*  
11 *Ground*, scheduled for May 14, 2018, to June 29, 2018, and *Special*  
12 *Considerations for the Rural Court Judge*, scheduled for September 10,  
13 2018, to October 26, 2018, which Respondent shall attend at his own  
14 expense. Respondent shall promptly provide proof of completion of the  
15 courses to this Court and the commission;  
16

17 IT IS FURTHER ORDERED that respondent shall receive a PUBLIC  
18 CENSURE from this Court for the conducted admitted in the Stipulation  
19 Agreement and Consent to Discipline, which will be issued at a later date for  
20 publication in the New Mexico Appellate Reports and Bar Bulletin; and

21 IT IS FURTHER ORDERED that the file is UNSEALED in accordance  
22 with Rule 27-104(B) NMRA.

23 IT IS SO ORDERED.



WITNESS, the Honorable Judith K. Nakamura,  
Chief Justice of the Supreme Court of the State of  
New Mexico, and the seal of said Court this 18th day  
of December, 2017.

A handwritten signature in black ink, appearing to read "Joey D. Moya".

Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.


Joey D. Moya  
Chief Clerk of the Supreme Court  
of the State of New Mexico

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G. WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
2017-053

**FILED**  
JAN 10 2019  
NM JUDICIAL  
STANDARDS COMMISSION



SHOW CAUSE ORDER

WHEREAS, this matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion; and

WHEREAS, the Commission and Hon. Warren G. Walton having entered into a *Stipulation Agreement and Consent to Discipline* ("Stipulation") on November 21, 2017; and

WHEREAS, the Supreme Court granted the Commission's *Petition to Accept Stipulation Agreement and Consent to Discipline* on December 18, 2017, and ordered Hon. Warren G. Walton to abide by all terms of the *Stipulation*; and

WHEREAS, paragraph 12 of the *Stipulation* provides:

Respondent shall not make any misrepresentations to the media concerning these matters (consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and Inquiry No. 2017-053), the facts and circumstances of Respondent's *Stipulation*, or the Commission's proceedings;

and

WHEREAS, Hon. Warren G. Walton, having participated in a publicly broadcast radio interview with KRTN Radio on or about October 11, 2018, and when asked about his public censure, is alleged to have made statements to the media that misrepresented the facts and circumstances of the *Stipulation* by misrepresenting the grounds, extent and nature of his admitted and uncontested conduct detailed in the *Stipulation*; and

WHEREAS, such misrepresentations would constitute a violation of the terms of paragraph 12 of the *Stipulation*; and

WHEREAS, paragraph 15 of the *Stipulation*, Non-Compliance and Breach, in relevant part, provides:

If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in the *Notice of Preliminary*

**Exhibit 4**



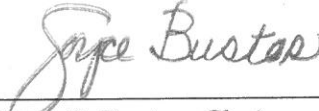
*Investigation* issued in Inquiry No. 2017-053, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt. In addition, the three-week suspension without pay detailed in paragraph 5d above [of the *Stipulation*] will be automatically imposed.... ;

NOW, THEREFORE, YOU, WARREN G. WALTON, ARE HEREBY ORDERED TO file a written response **on or before January 25, 2019, at 4:00 p.m.**, showing cause, if you have any, why this Commission should not:

1. Find that you have violated paragraph 12 of the *Stipulation* and thereby obstructed Commission business and/or committed contempt of the Commission; and
2. Move the Supreme Court to enforce the terms of paragraph 15, including automatic imposition of the deferred three-week suspension without pay.

IT IS SO ORDERED.

JUDICIAL STANDARDS COMMISSION



By: Joyce E. Bustos, Chair  
Post Office Box 27248  
Albuquerque, New Mexico 87125-7248  
Telephone: (505) 222-9353  
Fax: (505) 222-9358

**CERTIFICATE OF MAILING**

I hereby certify that a true copy of the foregoing was mailed on this 10<sup>th</sup> day of January, 2019, by certified mail, return receipt requested to:

Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148



SHARIESSE T. MCCANNON  
Clerk of the Commission

**KRTN Radio Interview, October 11, 2018**  
**Hon. Warren G. Walton**

<b>Counter</b>	<b>Speaker</b>	<b>Discussion</b>
7:57	Interviewer	I wanted to also ask you about, uh, the, uh, uh, the proceedings, the censure that -
	Judge	Yes.
	Interviewer	Was brought against you here in June of 2017.
8:10	Judge	Yes, I do want to talk about that.
	Interviewer	Okay.
8:11	Judge	<p>So, the Magistrate Court for several years now has been understaffed. Uh, and the judiciary has had a real hard time -the Administrative Office of the Courts - has had real hard time getting out to the rural areas and providing training. You know, when we get a, a fresh individual off the street who's going to be a clerk, their responsibilities that they immediately take over as a clerk are huge. And many times what we do is we hold a clerk's uh, uh, uh training down in Albuquerque. Well, the money kind of dwindled away and that yearly training went away.</p> <p>What they did is they replaced it with regional training, where they would have a, what we call a Super Clerk. We call them - they're called SOMs. And so they would travel out to these regional areas and provide training. But, Raton being as far away as it is, we're not getting the training that we were getting previously. So, you know, and the Magistrate Court is extremely busy. So, in saying that, we had many times where we didn't have enough clerks, plus the clerks that were there were not trained in some of the areas, and we fell behind. And so, in falling behind trying to keep a very busy court going, I stepped in - was trying to answer phones, dealing with people at the, at the, uh, window. Uh, in doing that, I made some mistakes. And so the Censure involves some of those mistakes that I made. And, uh, you know, it's been a very positive experience for me because when someone - when Judicial Standards gets involved and a, uh, uh, a judge has some issues, they provide additional training, and so they provided me uh, uh, training in two different computer courses. I'm finishing the very last one now. And it has to deal with issues with rural courts. And, man, I'll tell you what. Judges from Montana, Wyoming, Alaska - you're dealing with classmates on the computer that are from extremely rural areas. This one lady is from Delta Junction, Alaska where I flew helicopters, and talk about remote and remote issues up there. It's been a fantastic experience and a positive experience for me. The education has been fantastic.</p>
10:39	Interviewer	Okay, um, again, um, after the investigation both agreed that, uh, this is what would happen and -

**Stipulated**  
**Ex. 2**

**Exhibit 5-1**


Counter	Speaker	Discussion
	Judge	Um uh.
	Interviewer	– and your discipline is a supervised probation.
10:50	Judge	Yes. Yes. I have a mentor judge, uh, Judge John Davis from um, uh, Bernalillo. What a fantastic guy. He is just wonderful. And we, we talk on the phone. We meet, uh, quarterly. We'll meet again here in the next couple of weeks, I believe, down in Bernalillo. And then, uh, he, he keeps in touch with me until January 1 <sup>st</sup> and uh that's pretty much it. We've had some great discussions. And he has helped me. It's been a, a wonderful experience with him. He's a very experienced judge.
11:22	Interviewer	We're talking with Warren Walton, candidate for re-election for Magistrate Judge Division I.

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G. WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041  
Inquiry No. 2017-053

**FILED**  
NOV 21 2017  
NM JUDICIAL  
STANDARDS COMMISSION



STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

THIS MATTER is currently pending before the Judicial Standards Commission (“the Commission”) pursuant to the *Notices of Preliminary Investigation* issued in Inquiry No. 2016-101 on February 21, 2017; Inquiry No. 2016-139 on February 9, 2017; Inquiry Nos. 2017-018 and 2017-041 on April 13, 2017; and, the *Notice of Formal Proceedings* issued in the consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 on June 27, 2017; and the *Notice of Preliminary Investigation* issued on October 18, 2017 in Inquiry No. 2017-053. (See Exs. A, B, C, D, and E, respectively)

This *Stipulation Agreement and Consent to Discipline* (“*Stipulation*”) is entered into by and between the Judicial Standards Commission and Hon. Warren G. Walton (“Respondent”). Respondent is represented by Steven L. McConnell, Esq., of Kamm & McConnell, LLC. The parties hereby enter into the following *Stipulation*:

1. Respondent admits that he committing the following acts:
  - a. On or about October 14, 2016, Respondent caused the Defendant in the case of *State v. Michael Malcom*, M9-MR-2015-00081, to call Respondent following Respondent’s *ex parte* communication with Defendant’s mother. Respondent told the Defendant that he (Respondent) was making a report concerning Defendant’s case, that Defendant’s case had not been handled properly, and that an investigator may or may

**Stipulated**  
**Ex. 3**

**Exhibit**  
**5-2**

not be calling him. At the time of the *ex parte* communication, Respondent knew that Defendant's case was still pending before Respondent and that Defendant was represented by counsel.

b. On or about October 14, 2016, Respondent initiated an *ex parte* communication with the Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, while the case was still pending before Respondent and the Defendant was represented by counsel, requesting the Defendant's phone number, and stating that he (Respondent) was making a report to a State agency about the improper handling of her son's case, that an investigator may or may not be calling her, and that it would be favorable to her son's case.

c. On or after about October 14, 2016, after Respondent had *ex parte* communications with Defendant and Defendant's mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, Respondent failed to notify Defendant's counsel and the prosecutor of the substance of the *ex parte* communication, failed to give the parties an opportunity to respond, and failed to recuse from the case until June 30, 2017.

d. On or about August 22, 2016, Respondent quashed a bench warrant in the matter of *State v. Christina Irvin*, M9-MR-2016-00176, after engaging in an *ex parte* communication with the defendant's father, who requested the bench warrant be quashed. Respondent failed to make provision promptly to notify the parties of the substance of the *ex parte* communication and failed to give the parties an opportunity to respond.

e. On or about May 26, 2016, Respondent misused the contempt power when he issued *Order[s] to Show Cause* to attorneys Ray Floersheim and Sarah Montoya for "Failure to appear for Court Scheduled hearings," when no dates of hearings that the

attorneys allegedly failed to appear for were indicated in the show cause orders because Respondent's purpose for the show cause hearing was to discuss scheduling issues and not because of any contemptuous behavior by the attorneys.

f. On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, Respondent granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter, Respondent failed to provide notice or an opportunity for opposing counsel to be heard on the matter, and opposing counsel was not informed of the continuance until the morning of trial when he appeared with his subpoenaed witnesses.

g. On or about July 31, 2015, Respondent violated the due process of defendants when he granted blanket continuances for a number of hearings based upon an *ex parte* communication via e-mail from a New Mexico State Police officer, when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.

h. On or about November 3, 2016, the morning of trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which Respondent had recused, Respondent inserted himself in the area where members of the jury panel were circulating to set up chairs for the prospective jurors.

i. On various occasions between about April 2015 and November 2016, Respondent called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with his (Respondent's) personal cell phone number, told them to call if they needed anything and/or told them to provide Respondent's cell number to the attorneys, and subsequently engaged in *ex parte* communications with

staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, Respondent failed to make provision promptly to notify all other parties of the substance of the *ex parte* communications and failed to give the other parties an opportunity to respond.

2. Respondent does not contest that the Commission has sufficient facts and evidence to prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts in paragraph 1a-i above, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-206(A), 21-209(A), 21-210(A), and 21-211(A) and (C) NMRA 2012.

3. While this matter was pending, a *Notice of Preliminary Investigation* was issued in Inquiry No. 2017-053. The Commission and Respondent agree that both matters will be resolved in this *Stipulation*.

4. With regard to the allegations in Inquiry No. 2017-053, Respondent does not contest that the Commission can prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts detailed in paragraph 4a-d below, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B), 21-209(A), and 21-212(A) NMRA 2012.

a. In about 2013 and 2014, Respondent had *ex parte* communications with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before Respondent at the time, as well as had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.

b. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, Respondent

commonly had *ex parte* communications with attorneys who called Respondent at the Court, as well as at home, and/or contacted Respondent in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, Respondent failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.

c. In or about 2013 and 2014, Respondent failed to cooperate with AOC supervisory personnel and clerks, who were at Respondent's Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and other operational problems. By example, Respondent: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to him after the clerks had been directed by the SOMs not to put these calls through; was obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

d. In or about 2013 and 2014, Respondent allowed his judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, Respondent often commented that he needed to win the election and made statements to the effect that he would continue to take calls from attorneys and officers because he needed to win the election, or that he needed to accommodate the public in order to win the election. Further, it is alleged that, because of Respondent's fear of



losing votes, he failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

5. Respondent consents to imposition of the following discipline by the Supreme

Court:

a. **Formal mentorship with supervised probation.** The Judicial Standards Commission will recommend the mentor/probation supervisor for the Supreme Court's approval and appointment. The mentorship/supervised probation shall begin upon the Supreme Court's appointment of the mentor/probation supervisor and shall be in effect for the remainder of Respondent's current term. The mentor/probation supervisor shall report on the progress and outcome of the mentorship and probation program to the Supreme Court and the Commission.

b. **Public censure**, which shall be published in the *New Mexico Bar Bulletin*.

c. **Enrollment in, and successful completion of, National Judicial College (NJC) webcast courses** *Ethics and Judging: Reaching Higher Ground*, scheduled for May 14-June 29, 2018; and, *Special Considerations for the Rural Court Judge*, scheduled for September 10-October 26, 2018. This will be at Respondent's own expense. Respondent must promptly provide proof of completion to the Supreme Court and the Commission.

d. **Three-week suspension without pay**; however, imposition of the three weeks of suspension without pay will be deferred on the condition that Respondent successfully complete the National Judicial College courses, mentorship and probation.

6. The Commission will file under seal with the New Mexico Supreme Court, pursuant to Rule 27-104(B) NMRA 2011, a *Petition to Accept Stipulation Agreement and Consent to Discipline ("Petition")*, attaching a copy of this *Stipulation*.

7. Upon granting the *Petition*, pursuant to Supreme Court Rules, the matter will be unsealed.

8. The Commission agrees to abate the current proceedings in consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041 and in Inquiry No. 2017-053 upon granting of the *Petition* by the Supreme Court.

9. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

10. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

11. Upon successful completion of the terms of the *Stipulation*, the Commission will close these matters.

12. Respondent shall not make any misrepresentations to the media concerning these matters (consolidated Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and Inquiry No. 2017-053), the facts and circumstances of Respondent's *Stipulation*, or the Commission's proceedings.

13. This document is not enforceable unless fully executed by all parties.

14. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

15. Non-Compliance and Breach. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in the *Notice of Preliminary Investigation* issued in Inquiry No. 2017-053, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt. In addition, the three-week suspension without pay detailed in paragraph 5d above will be automatically imposed. Further, if Respondent's conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, Respondent agrees that he shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

16. The terms and conditions contained in this *Stipulation* are mutually acceptable to and agreed upon by all parties.

17. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

#### RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation*. I have had the opportunity to discuss this matter and my rights with a lawyer. I understand that by entering into this *Stipulation*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses regarding those issues. I stipulate that the Commission has sufficient evidence to prove the facts presented in this *Stipulation* and to conclude that individually and taken together the facts constitute willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct, and provide sufficient basis for the New Mexico Supreme Court to impose discipline against me pursuant to Article VI, Section 32 of the New Mexico Constitution.

I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation*, I am agreeing to abide by all the terms and provisions contained herein. I understand that if I violate any terms or provisions of this *Stipulation* in any manner, I agree, acknowledge, and accept that all allegations lodged against me in the *Notice of Formal Proceedings* issued in Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041, and the allegations in Inquiry No. 2017-053, will be considered admitted by me as fact, and that the Commission shall re-initiate all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation* was executed. I also understand and agree that the three-week suspension without pay will be automatically imposed. I further understand that if my conduct causes a *Notice of Formal Proceedings* to be issued in a new matter that involves the same type of conduct detailed in this *Stipulation* and the conduct alleged occurs on or after the date this *Stipulation* is filed, I agree that I shall be summarily suspended without pay by the Supreme Court until the new matter is resolved.

I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.

I acknowledge that my conduct concerning the enumerated facts to which I admit and the violations of the specified rules of Code of Judicial Conduct which I do not contest, provide sufficient bases for the imposition of discipline pursuant to Article VI, Section 32 of the New Mexico Constitution, as agreed to in this *Stipulation*, and are material to the Commission's deliberations and ultimate acceptance of this *Stipulation Agreement and Consent to Discipline*.



Dated: 11-8-17

HON. WARREN G. WALTON  
*Respondent*

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/17

STEVEN L. MCCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.

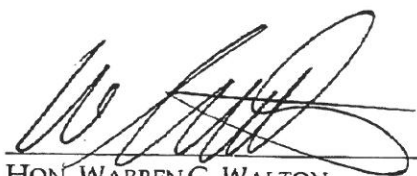
see next page /  
DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

Dated: 11/21/17



**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.



Dated: 11-8-17

HON. WARREN G. WALTON  
*Respondent*

**DEFENSE COUNSEL REVIEW**

I have reviewed the stipulation agreement with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation Agreement and Consent to Discipline*.




Dated: 11/8/17

STEVEN L. MCCONNELL, ESQ.  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148  
*Counsel for Respondent*

**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation Agreement and Consent to Discipline*.



Dated: 11/8/2017

DEBORAH BORIO, ESQ.  
*Investigative Trial Counsel*

**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation Agreement and Consent to Discipline*.

*Joyce Bustos*

Dated: 11/21/17

JOYCE BUSTOS  
Chair

*Randy Roybal*

Dated: 11/21/17

RANDALL D. ROYBAL, ESQ.  
Executive Director & General Counsel



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

February 21, 2017

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 21 2017

NM JUDICIAL  
STANDARDS COMMISSION

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

*Re: Inquiry No. 2016-101; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that:

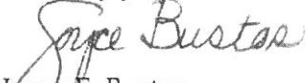
1. In or about May - July 2016, you issued Orders to Show Cause to Ray Floersheim and Sarah Montoya for the purpose of having the attorneys appear in court to discuss scheduling issues or for some other purpose for which a show cause order is inappropriate, and subsequently told the attorneys to disregard the Orders. The Orders did not contain court case numbers and no show cause hearings were ever held; and,
2. On various occasions, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything at all and/or to provide your cell number to the attorneys so they could call you and, further, that you engaged in *ex parte* communications which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit A

regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

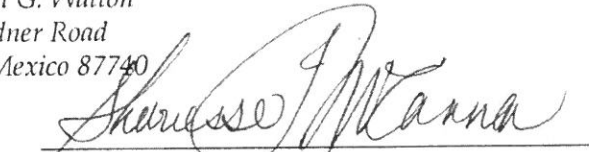
Sincerely yours,

  
Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 21<sup>st</sup> day of February 2017, by certified mail, return receipt requested to:

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION





STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NM|SC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

February 9, 2017

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

*Re: Inquiry No. 2016-139; Notice of Preliminary Investigation*

CONFIDENTIAL  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 19 2017

NM JUDICIAL  
STANDARDS COMMISSION

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that you violated the due process of multiple parties:

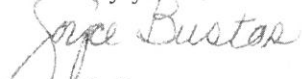
1. On or about July 11, 2014, when you granted the prosecuting officer's *Motion to Continue* a trial in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, when the opposing party was not contacted for his position and was not provided notice or an opportunity to be heard on the matter and, further, the opposing party was not notified that the trial had been continued until July 18, 2014, which was the day for which the trial had been scheduled.
2. On or about July 31, 2015, when you granted blanket continuances in several hearings based upon an e-mail request from a New Mexico State Police Officer Sharron Duran, although the e-mail did not contain the names and case numbers of the specific cases and did not reflect that opposing parties had been contacted for their respective positions. Further, this occurred after your July 18, 2014 letter to "All Law Enforcement Agencies and Public Defenders" stating you would not grant any continuances without a statement that the opposing party had been contacted and agreed, as it would be *ex parte*.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents

Exhibit B

regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,



Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 10<sup>th</sup> day of February 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740*



---

SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

April 12, 2017

Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CONFIDENTIAL

FILED

APR 13 2017

NM JUDICIAL  
STANDARDS COMMISSION

*Re: Inquiry Nos. 2017-018 and 2017-041; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matters came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. On or about May 11, 2016, you called attorney Sarah Montoya on her cell phone to conduct a "little hearing" on speaker phone, after one of Ms. Montoya's clients had shown up in the courtroom, but no case was on the docket and Ms. Montoya was not scheduled to be in court and had no notice of a hearing.
2. On or about August 22, 2016, you had an *ex parte* communication with Jack Irvin, father of the Defendant in *State v. Christina Irvin*, M9-MR-2016-0176, and, based upon your *ex parte* communication, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard on the matter.
3. On or about August 15, 2016, you failed to promptly and efficiently conduct hearings in ten (10) cases—five (5) of which were preliminary examinations—for which the appointed attorney, Sarah Montoya, was in trial in the district court and had filed notice of such, and for which attorney Ray Floersheim was prepared to cover. Despite Mr. Floersheim's presence and ability to cover the cases, you made a statement to the effect of: "Since Sarah Montoya is not here, we can't conduct any of her cases," which interfered with the administration of justice, created unnecessary and avoidable delays,

Exhibit C

and exacerbated the court's scheduling issues. The following ten (10) cases were affected:

- *State v. Albert Garcia*, M9-DR-2014-00019
- *State v. Jay D. Muse*, M9-FR-2016-00030
- *State v. Vanessa M. Sanchez*, M9-FR-2016-00102
- *State v. April Salazar*, M9-FR-2016-00018
- *State v. Francisca Duarte*, M9-FR – 2016-00135
- *State v. Chanel Esckelson*, M9-FR-2016-00139
- *State v. Toby Muniz*, M9-MR-2015-00397
- *State v. Toby Muniz*, M9-MR-2016-00225
- *State v. Shaun Ortega*, M9-VM-2015-00033
- *State v. Andrew Martinez*, M9-VM-2016-00016

4. On or about October 14, 2016, you called Sharon Malcom—mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—and informed her that you were going to be filing a case with a State agency because nothing in her son's case had been handled correctly. Further, it is alleged that you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable for her son's case if she spoke with the investigator.

5. On or about October 14, 2016, you called Michael Malcom—Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—who left a message for you with his name and cell phone number, after you attempted to contact him through his mother. Further, it is alleged that you told the Defendant: he had not gotten a proper deal; that his attorney did not represent him well and she had not done her job; an investigator might call him and it would only turn out favorably for his case; and, that he [the Defendant] was not to tell anyone that you had spoken with him.

6. On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, the jurors who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within **twenty-one (21) days** of your receipt of this letter.

Sincerely yours,

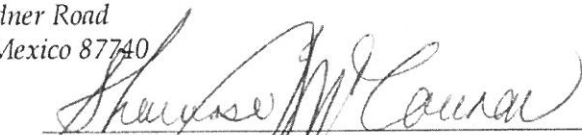


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 17<sup>th</sup> day of April 2017, by certified mail, return receipt requested to:


*Hon. Warren G. Walton  
1404 Gardner Road  
Raton, New Mexico 87740*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G WALTON  
Colfax County Magistrate Court

Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041

**FILED**  
JUN 27 2017   
NM JUDICIAL  
STANDARDS COMMISSION

NOTICE OF FORMAL PROCEEDINGS

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Rule 15 NMRA 2010 of the Judicial Standards Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or about October 14, 2016, you called, or caused Michael Malcom to call you, after you contacted his mother requesting his phone number. Further, you had an *ex parte* conversation with Michael Malcom, who was represented by counsel and whose case, *State v. Michael Malcom*, M9-MR-2015-00081, was pending before you—in which you informed the Defendant that: his attorney had not represented him well in his case and had not done her job; he had not gotten a proper deal; an investigator might call him and it would only turn out favorably for his case; and, he was not to tell anyone that you had spoken with him.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.

Exhibit D

## COUNT II

On or about October 14, 2016, you initiated an *ex parte* communication by calling Sharon Malcom, mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081 – a case that was pending before you – in which you informed Mrs. Malcom that nothing in her son’s case had been handled correctly and you were going to be initiating a case with a State agency. Further, you informed Mrs. Malcom that she may be getting a call from an investigator and that it would be favorable to her son’s case if she spoke with the investigator.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-210(A) NMRA 2012, and constitutes willful misconduct in office.

## COUNT III

On or after about October 14, 2016, after you had *ex parte* communications with the Defendant and his mother in the case of *State v. Michael Malcom*, M9-MR-2015-00081, you failed to recuse from the case and failed to make provision to promptly notify the parties of the substance of your conversations and give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), 21-209(A), and 21-211(A) and (C) NMRA 2012, and constitutes willful misconduct in office.

## COUNT IV

On or about November 3, 2016, you placed yourself in the area of, and were circulating amongst, members of the jury panel who were present for trial in the case of *State v. Ricky Lynn Decker*, M9-VM-2016-00017, a case from which you were recused.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT V

On or about August 22, 2016, in the case of *State v. Christina Irvin*, M9-MR-2016-00176, you permitted and engaged in an *ex parte* communication with Jack Irvin, father of the Defendant, and, as a result, cancelled the bench warrant on the Defendant without notice to the prosecution or an opportunity to be heard. Further, you failed to make provision to promptly notify the parties of the substance of your conversation with Mr. Irvin and failed to give the parties an opportunity to respond.

Such conduct violates Rules 21-101, 21-102, 21-205(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VI

On or about May 26, 2016, you issued an *Order to Show Cause* to Ray Floersheim and to Sarah Montoya for "Failure to appear for Court Scheduled hearings," when the purpose of the show cause hearing was not because of allegedly contemptuous behavior, but for the purpose of having the attorneys appear so you could discuss scheduling issues.

Such conduct violates Rules 21-101, 21-102, 21-103, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

#### COUNT VII

On or about July 31, 2015, you granted blanket continuances for an untold number of hearings based upon an *ex parte* e-mail from a New Mexico State Police officer when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.



Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

COUNT VIII

On or about July 11, 2014, in the case of *State v. Russell Laughlin*, M9-MR-2014-00111, you granted the prosecuting officer's *Motion to Continue* a trial when opposing counsel had not been contacted for his position on the matter and you did not provide notice or an opportunity for opposing counsel to be heard on the matter.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

COUNT IX

On various occasions between about April 2015 and November 2017, you called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with your personal cell phone number, told them to call you if they needed anything and/or told them to provide your cell number to the attorneys so they could call you and, further, you engaged in *ex parte* communications with staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, you failed to promptly notify all parties of the communications.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), 21-206(A), and 21-209(A) NMRA 2012, and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:

Judicial Standards Commission  
P.O. Box 27248  
Albuquerque, New Mexico 87125-7248

Your answer should be legible and your signature must be verified.

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION

By: Joyce Bustos  
Joyce Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed via certified U.S. mail, return receipt requested, on this 27<sup>th</sup> day of June, 2017, to the following:

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

Shariessa T. McCannon  
SHARIESSE T. MCCANNON  
Clerk of the Commission



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
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RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

DEBORAH BORIO  
*Investigative Trial Counsel*

October 17, 2017

**CONFIDENTIAL**  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**FILED**

OCT 18 2017

NM JUDICIAL

STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "RM", written over the stamp area.

Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

*Re: Inquiry No. 2017-053; Notice of Preliminary Investigation*

Dear Judge Walton:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that:

1. In about 2013 and 2014, you had *ex parte* communications on multiple occasions with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before you at the time, and that you also had *ex parte* communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.
2. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, you commonly had *ex parte* communications with attorneys who called you at the Court, as well as at your home, and/or contacted you in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, you failed to make provision to promptly notify all other parties of the substance of the *ex parte* communications, and give the other parties an opportunity to respond.
3. In or about 2013 and 2014, you failed to cooperate with AOC supervisory personnel and clerks, who were at your Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and


Exhibit E

other operational problems at your Court. By example, you: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to you after the clerks had been directed by the SOMs not to put these calls through to you; were obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

4. In or about 2013 and 2014, allowed your judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, you often commented that you needed to win the election and made statements to the effect that you would continue to take calls from attorneys and officers because you needed to win the election, or that you needed to accommodate the public in order to win the election. Further, it is alleged that, because of your fear of losing votes, you failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

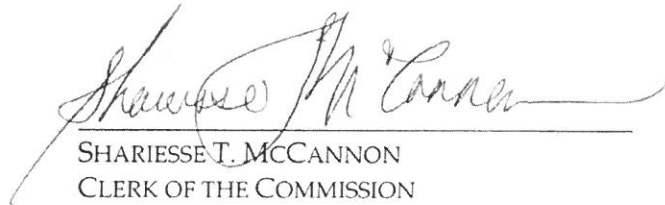


Joyce E. Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 18<sup>th</sup> day of October 2017, by certified mail, return receipt requested to:

*Hon. Warren G. Walton  
c/o Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148*

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

  
Joey D. Moya

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **December 31, 2018**

3                   **NO. S-1-SC-36763**

4                   **INQUIRY CONCERNING A JUDGE**  
5                   **NOS. 2016-101, 2016-139, 2017-018,**  
6                   **2017-041 and 2017-053**

7  
8                   **IN THE MATTER OF HON. WARREN G. WALTON**  
9                   **Magistrate Jude,**  
10                   **County of Colfax, New Mexico**

11  
12   **PUBLIC CENSURE**

13                   WHEREAS, this matter came on for consideration by the Court upon the  
14                   Judicial Standard's Commission's petition to accept the stipulated agreement and  
15                   consent to discipline between the Judicial Standards Commission and Respondent,  
16                   Honorable Warren G. Walton;

17                   WHEREAS, this Court previously issued an order granting the petition for a  
18                   deferred suspension without pay upon certain conditions, with a public censure to  
19                   follow;

20                   WHEREAS, regarding Inquiry Numbers 2016-101, 2016-139, 2017-018 and  
21                   2017-041, Respondent admits that he committed the following acts:

22                   (1)    On or about October 14, 2016, Respondent caused the Defendant in  
23                   the case of *State v. Michael Malcom*, M9-MR-2015-00081, to call Respondent  
24                   following Respondent's *ex parte* communication with Defendant's mother.  
25                   Respondent told the Defendant that he (Respondent) was making a report  
26                   concerning Defendant's case, that Defendant's case had not been handled properly  
27                   and that an investigator may or may not be calling him. At the time of the *ex parte*

**Examiner's**  
**Ex. A**

**Exhibit**  
**5-3**

1 communication, Respondent knew that Defendant's case was still pending before  
2 Respondent and that Defendant was represented by counsel;

3  
4 (2) On or about October 14, 2016, Respondent initiated an *ex parte*  
5 communication with the Defendant's mother in the case of *State v. Michael*  
6 *Malcom*, M9-MR-2015-00081, while the case was still pending before Respondent  
7 and the Defendant was represented by counsel, requesting the Defendant's phone  
8 number, and stating that he (Respondent) was making a report to a State agency  
9 about the improper handling of her son's case, that an investigator may or may not  
10 be calling her, and that it would be favorable to her son's case:

11  
12 (3) On or after about October 14, 2016, after Respondent had *ex parte*  
13 communications with Defendant and Defendant's mother in the case of *State v.*  
14 *Michael Malcom*, M9-MR-2015-00081, Respondent failed to notify Defendant's  
15 counsel and the prosecutor of the substance of the *ex parte* communication, failed  
16 to give the parties an opportunity to respond, and failed to recuse from the case  
17 until June 30, 2017;

18  
19 (4) On or about August 22, 2016, Respondent quashed a bench  
20 warrant in the matter of *State v. Christina Irvin*, M9-MR-2016-00176, after  
21 engaging in an *ex parte* communication with the Defendant's father, who requested  
22 the bench warrant be quashed. Respondent failed to make provision promptly  
23 to notify the parties of the substance of the *ex parte* communication and failed to  
24 give the parties an opportunity to respond;

25  
26 (5) On or about May 26, 2016, Respondent misused the contempt power  
27 when he issued *Order[s] to Show Cause* to attorneys Rav Floersheim and Sarah  
28 Montoya for "Failure to appear for Court Scheduled hearings," when no dates of  
29 hearings that the attorneys allegedly failed to appear for were indicated in the show  
30 cause orders because Respondent's purpose for the show cause hearing was to  
31 discuss scheduling issues and not because of any contemptuous behavior by the  
32 attorneys;

33  
34 (6) On or about July 11, 2014, in the case of *State v. Russell Laughlin*,  
35 M9-MR-2014-00111, Respondent granted the prosecuting officer's *Motion to*  
36 *Continue* a trial when opposing counsel had not been contacted for his position on  
37 the matter, Respondent failed to provide notice or an opportunity for opposing  
38 counsel to be heard on the matter, and opposing counsel was not informed of the  
39 continuance until the morning of trial when he appeared with his subpoenaed  
40 witnesses;

1  
2 (7) On or about July 31, 2015, Respondent violated the due process of  
3 defendants when he granted blanket continuances for a number of hearings based  
4 upon an *ex parte* communication via e-mail from a New Mexico State Police  
5 officer, when the cases were not identified by name or case numbers, opposing  
6 parties had not been contacted for their respective positions on the  
7 continuances, and opposing parties were not provided notice or the opportunity to  
8 be heard on the continuances;

9  
10 (8) On or about November 3, 2016, the morning of trial in the case of  
11 *State v. Ricky Lynn Decker*, M9-VM-2016-00017, case from which Respondent  
12 had recused, Respondent inserted himself in the area where members of the jury  
13 panel were circulating to set up chairs for the prospective jurors; and

14  
15 (9) On various occasions between about April 2015 and November 2016  
16 Respondent called staff members working for attorneys Sarah Montoya and Ray  
17 Floersheim, provided them with his (Respondent's) personal cell phone number,  
18 told them to call if they needed anything and/or told them to provide Respondent's  
19 cell number to the attorneys, and subsequently engaged in *ex parte*  
20 communications with staff members and attorneys, which, even if for scheduling,  
21 administrative or emergency purposes, Respondent failed to make provision  
22 promptly to notify all other parties of the substance of the *ex parte*  
23 communications and failed to give the other parties an opportunity to respond;

24  
25 WHEREAS, Respondent does not contest that the Commission has  
26 sufficient facts and evidence to prove by clear and convincing evidence that he  
27 engaged in willful misconduct by committing the acts in paragraphs (1)-(9) above,  
28 and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-103,  
29 21.-202, 21-205(A), 21-206(A), 21- 209(A), 21-210(A), and 21-211(A) and (C)  
30 NMRA 2012;

31 WHEREAS, with regard to the allegations in Inquiry No. 2017-053,  
32 Respondent does not contest that the Commission can prove by clear and



1 convincing evidence that he engaged in willful misconduct by committing the acts  
2 detailed in Paragraphs (1)-(4) below, and that he violated the Code of Judicial  
3 Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B),, 21-209(A) and  
4 21-212(A) NMRA. 2012:

5 (1) In about 2013 and 2014, Respondent had *ex parte*  
6 communications with Xanadu Vigil and Joey Rornero, both of whom had pending  
7 criminal cases before Respondent at the time, as well as had *ex parte*  
8 communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey  
9 Romero's father during the pendency of the cases;

10  
11 (2) In about 2013 and 2014, despite warnings and admonitions  
12 from Administrative Office of the Courts (AOC) supervisory personnel,  
13 Respondent commonly had *ex parte* communications with attorneys who called  
14 Respondent at the court, as well as at home, and/or contacted Respondent in person  
15 at the court seeking calendaring changes or other requests in their cases and, even  
16 if for the purpose of scheduling, Respondent failed to make provision to promptly  
17 notify ail other parties of the substance of the *ex parte* communications, and give  
18 the other parties an opportunity to respond;

19  
20 (3) In or about 2013 and 2014, Respondent failed to cooperate with AOC  
21 supervisory personnel and clerks, who were at Respondent's court for the purpose  
22 of establishing and enforcing processes to resolve backlogs and to correct case  
23 management and other operational problems. By example, Respondent: countered  
24 the directives of the AOC statewide operations managers (SOMs) by instructing  
25 court clerks to put phone calls from defendants or attorneys through to him. after  
26 the clerks had been directed by the SOMs not to put these calls through; was  
27 obstructive with AOC's attempts to standardize judicial practices; disregarded and  
28 failed to abide by the calendaring process; disrupted operations by having clerks  
29 drop what they were doing to change settings for walk-ins and/ or attorneys and  
30 officers; and, created inconsistencies and further inefficiencies by unilaterally  
31 changing processes if a clerk complained about them;

32  
33 (4) In or about 2013 and 2014, Respondent allowed his judicial decisions  
34 and conduct to be influenced by public opinion, fear of criticism and/or political  
35 interests. For example, Respondent often commented that he needed to win the  
36 election and made statements to the effect that he would continue to take calls

1 from attorneys and officers because he needed to win the election, or that he  
2 needed to accommodate the public in order to win the election. Further, it is  
3 alleged that, because of Respondent's fear of losing votes, he failed to correct  
4 attorneys and officers who were disrespectful to the court and/or were substantially  
5 late to court settings; and

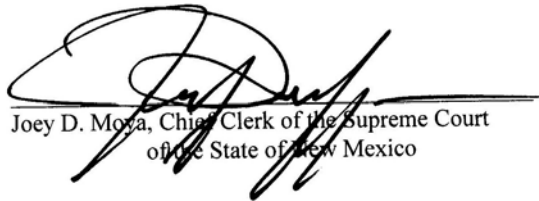
6  
7 WHEREAS, in light of the foregoing, the Court having granted the Judicial  
8 Standard's Commission's petition to accept the stipulated agreement and consent  
9 to discipline and being sufficiently advised, Chief Justice Judith K. Nakamura,  
10 Justice Petra Jimenez Maes, Justice Charles W. Daniels, and Justice Barbara J.  
11 Vigil concurring;

12 NOW, THEREFORE, IT IS ORDERED that this PUBLIC CENSURE is  
13 issued to Respondent, Hon. Warren G. Walton.

14 IT IS SO ORDERED.



WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 31st day of December, 2018.

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

I CERTIFY AND ATTEST:

15 A true copy was served on all parties  
or their counsel of record on date filed.

Joey D. Moya

Chief Clerk of the Supreme Court  
of the State of New Mexico

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

NO. S-1-SC-36763

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

RECORD OF HEARING

JUDICIAL STANDARDS COMMISSION  
RANDALL D. ROYBAL  
DEBORAH L. BORIO  
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*Counsel for Petitioner*

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Telephone: (575) 445-5575  
Fax: (575) 445-5621

*Counsel for Respondent*

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

NO. S-1-SC-36763

IN THE MATTER OF HON. WARREN G. WALTON  
Colfax County Magistrate Court

INQUIRIES CONCERNING HON. WARREN G. WALTON  
Inquiry Nos. 2016-101, 2016-139, 2017-018 and 2017-041  
and  
Inquiry No. 2017-053

RECORD OF HEARING

Petitioner Judicial Standards Commission ("the Commission"),  
hereby files the following item comprising the Commission's record of the  
evidentiary hearing on February 11, 2019: CD of the hearing.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



---

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

DEBORAH L. BORIO  
*Senior Investigative Trial Counsel*  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
Telephone: (505) 222-9353

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing sent via U.S. Mail

Delivery on this 13<sup>th</sup> day of February 2019 to:

Steven L. McConnell  
Kamm & McConnell, LLC  
P.O. Box 1148  
Raton NM 87740-1148

  
\_\_\_\_\_  
DEBORAH L. BORIO, ESQ.