


Joey D. Moya

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

2 **April 8, 2019**

3 **NO. S-1-SC-37568**

4 **INQUIRY CONCERNING A JUDGE**
5 **JSC Inquiry No. 2018-020**

6 **IN THE MATTER OF**
7 **HON. ALBERT J. MITCHELL, Jr.**
8 **Tenth Judicial District Court**

9
10 **ORDER AND PUBLIC CENSURE**

11 WHEREAS, this matter came on for consideration by the Court upon a
12 petition to accept a stipulation agreement and consent to discipline between the
13 Judicial Standards Commission and Respondent, Hon. Albert J. Mitchell, Jr.;

14 WHEREAS, in the stipulation agreement, Respondent admits to the following
15 facts:

- 16 (1) On or about January 8, 2018, Respondent met privately with County
17 Manager Richard Primrose following a meeting of the Quay County
18 Commissioners; and
19
20 (2) At the private meeting with the County Manager on January 8, 2018,
21 Respondent expressed his displeasure with the vote of the County
22 Commissioners concerning security of the Quay County Courthouse;

23
24 WHEREAS, in the stipulation agreement, Respondent denies that he
25 engaged in willful misconduct regarding political influence, but Respondent does
26 not contest that the Commission has sufficient facts and evidence to prove the
27 following conduct occurred at the private meeting with the County Manager on

1 January 8, 2018:

- 2 (1) Respondent made statements indicating he had the Governor's ear and
3 could call on her to line-item veto capital outlay funds for Quay
4 County if the court security measures Respondent wanted were not
5 met;
6
- 7 (2) Respondent made statements indicating that if the court security
8 measures Respondent wanted were not met, a prominent legislator
9 could take the Quay County court's security measures into his own
10 hands and pass a law to provide the measures Respondent believed
11 were necessary for the courthouse; and
12
- 13 (3) Respondent made statements indicating that if any of a number of
14 specific options concerning court security were implemented,
15 Respondent would not follow through with notifying the Governor
16 about Quay County's failure to implement the court security
17 measures. The manner in which Respondent presented the options to
18 the County Manager on January 8, 2018, was suggestive of a threat
19 and the possibility of putting Quay County in jeopardy of not
20 receiving capital outlay funds;
21

22 WHEREAS, in the stipulation agreement, Respondent acknowledge that the
23 facts support a conclusion that he violated the Code of Judicial Conduct;

24 WHEREAS, the stipulation agreement provides that Respondent knew or
25 should have known that his actions were clearly a failure to be patient, dignified,
26 and courteous. *See* Rule 21-208(B) NMRA;

27 WHEREAS, the stipulation agreement provides that Respondent's
28 statements created an appearance of impropriety and could be perceived as an
29 abuse of the prestige of judicial office, which reflects negatively upon the
30 independence, integrity, and impartiality of, and respect for, the judiciary. *See*

1 Rules 21-102 and 21-103 NMRA;

2 WHEREAS, the stipulation agreement provides that Respondent consents to
3 the imposition of a public censure as discipline and to its publication in the New
4 Mexico *Bar Bulletin*; and

5 WHEREAS, in light of the foregoing, and the Court having determined that
6 acceptance of the stipulation agreement and consent to discipline is in the best
7 interests of the judiciary and the public and being sufficiently advised, Chief
8 Justice Judith K. Nakamura, Justice Barbara J. Vigil, Justice Michael E. Vigil,
9 Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

10 NOW, THEREFORE, IT IS ORDERED that the petition is GRANTED and
11 this PUBLIC CENSURE is issued to Respondent, Hon. Albert J. Mitchell, Jr.; and

12 IT IS FURTHER ORDER that this matter is UNSEALED under Rule 27-
13 104(B) NMRA.

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 8th day of April, 2019.

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

15 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