

  
Joey D. Moya

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No. S-1-SC-37456

IN THE MATTER OF HON. DOROTHY ENCINIAS  
Municipal Court Judge, Moriarty, New Mexico

INQUIRY CONCERNING HON. DOROTHY ENCINIAS  
Inquiry No. 2018-078

**FILED UNDER SEAL**

PURSUANT TO 27-104(B) NMRA

**MOTION TO ACCEPT STIPULATION TO PERMANENT  
RESIGNATION IN LIEU OF FURTHER DISCIPLINARY  
PROCEEDINGS AND TO VACATE HEARING**

JUDICIAL STANDARDS COMMISSION  
Post Office Box 27248  
Albuquerque, New Mexico 87125-7248  
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(505) 242-2824

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

*Counsel for Respondent*

PHYLLIS A. DOMINGUEZ  
*Deputy Director*

*Counsel for Petitioner*

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PROCEEDINGS AND TO VACATE HEARING**

The Judicial Standards Commission of the State of New Mexico (“Commission”), through the undersigned counsel, hereby moves the Supreme Court for an order approving the *Stipulation Agreement to Permanent Resignation in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”), attached hereto as Exhibit 1, in which Hon. Dorothy Encinias (“Respondent”), represented by Nathan E. Winger, Esq., has elected to permanently resign from judicial office effective at 5:00 p.m. on

the same day this Honorable Court enters an order approving the *Stipulation* and ordering Respondent's resignation. The Commission agrees with Respondent's decision to permanently resign from judicial office. The Commission further requests that the Supreme Court unseal the entire file in this matter, pursuant to Rule 27-104(B) NMRA and vacate the hearing set for April 2, 2019.

Respondent agrees to never again hold judicial office or exercise any judicial authority in the State of New Mexico. The Commission believes this *Stipulation* agreement best serves the interests of justice and the integrity of the New Mexico judiciary.

1. The Commission 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. The Commission issued a *Notice of Formal Proceedings* on August 9, 2018 in Inquiry 2018-078. (See Exhibit A to Exhibit 1.)

3. Respondent filed a response to the *Notice of Formal Proceedings* on September 5, 2018. (See Exhibit B to Exhibit 1.)

4. Upon majority vote of the Commissioners, the Commission entered into a *Stipulation* with the Respondent on March 19, 2019, which provides in pertinent part the following:

Respondent agrees to permanently resign as judge of the Moriarty Municipal Court, effective at 5:00 p.m. on the same day that the New Mexico Supreme Court enters an order approving this *Stipulation* and ordering Respondent's resignation. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall effect her permanent resignation by submitting duplicate original letters of resignation addressed to the Chief Justice of the New Mexico Supreme Court and to the Moriarty City Council, with a copy to the Judicial Standards Commission. Upon resignation, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings.

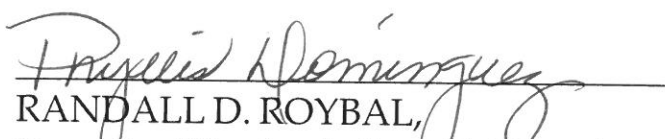
5. Upon order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

6. It is in the best interests of justice and integrity of the New Mexico judiciary that the Supreme Court grant the Commission's motion.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, approving the *Stipulation*, and ordering, effective immediately, the permanent resignation from judicial office of Respondent Hon. Dorothy Encinias. The Commission further requests that this order unseal all documents filed with the Supreme Court in this matter pursuant to Rule 27-104(B) NMRA and vacate the hearing set for April 2, 2019.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

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

PHYLLIS A. DOMINGUEZ,  
*Deputy Director*  
P.O. 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 Court's Electronic Filing and Service System addressed to Nathan E. Winger, Esq. on this 19<sup>th</sup> day of March 2019.

  
\_\_\_\_\_  
PHYLLIS A. DOMINGUEZ

BEFORE THE JUDICIAL STANDARDS COMMISSION  
STATE OF NEW MEXICO

INQUIRY CONCERNING HON. DOROTHY ENCINIAS  
Municipal Court, Moriarty, New Mexico

Inquiry No. 2018-078

**FILED**  
MAR 19 2019  
NM JUDICIAL  
STANDARDS COMMISSION



STIPULATION TO PERMANENT RESIGNATION FROM JUDICIAL OFFICE  
IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS

THIS MATTER is currently pending before the Judicial Standards Commission (“Commission”) pursuant to a *Notice of Formal Proceedings* issued to Hon. Dorothy Encinias (“Respondent”) on August 9, 2018, in Inquiry No. 2018-078 (See Exhibit A). Respondent’s response to the *Notice of Formal Proceedings* was filed on September 5, 2018 (See Exhibit B). The parties entered into a *Stipulation Agreement and Consent to Discipline* on December 20, 2018. A petition to accept the *Stipulation Agreement and Consent to Discipline* was filed with this Honorable Court on January 3, 2019.

This *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”) is entered into by and between the Commission and Respondent, who is represented by Nathan E. Winger, Esq. The parties hereby enter into the following agreement:

1. The Commission has jurisdiction over Respondent and the above-captioned and numbered matter pursuant to Article VI, Section 32 of the Constitution of the State of New Mexico; NMSA 1978, Sections 3410-1 through 34-10-4; and, the Judicial Standards Commission Rules.
2. Respondent agrees to permanently resign as judge of the Moriarty Municipal Court effective at 5:00 p.m. on the same day the Court enters an order approving this

Exhibit  
1

*Stipulation* and ordering Respondent's resignation. Grounds for this *Stipulation* include Respondent's failure to resign from judicial office when she became a candidate for Torrance County Commissioner. Upon acceptance of this *Stipulation* by the Court, Respondent shall effect her permanent resignation by submitting duplicate original letters of resignation addressed to the Chief Justice of the New Mexico Supreme Court and to the Moriarty City Council, with a copy to the Judicial Standards Commission.

3. Upon resignation, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings.

4. Pursuant to Rule 27-104(B) NMRA, the Commission will file under seal with the Court, a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("Motion"). A copy of this *Stipulation* will be attached as Exhibit 1 to the *Motion*.

5. Upon granting the *Motion* and pursuant to Supreme Court Rule 27-104(B), the Court should unseal the *Motion*.

6. Upon execution of this *Stipulation* and acceptance by the Court, the Commission will abate and close the matter pending against the Respondent before the Commission (Inquiry No. 2018-078).

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



8. 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 Commission's proceedings.

9. Respondent shall not make any public misrepresentations concerning this inquiry, the facts and circumstances of Respondent's permanent resignation, or the Commission's proceedings.

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

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

12. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts alleged in the *Notice of Formal Proceedings* issued in Inquiry No. 2018-078, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Court, and shall constitute obstruction of Commission business and contempt.

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


14. 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 an attorney. 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 these issues.

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 never again hold judicial office or exercise judicial authority as defined in this agreement under any circumstances, and that if I do hold any judicial office or exercise judicial authority at any point in the future, I will be in violation of this *Stipulation* and I could be held in contempt of the Commission and the Court. I further understand that if I violate any provision of this *Stipulation* in any other manner, I agree, acknowledge, and accept that all allegations lodged against me in the *Notice of Preliminary Investigation* issued to me are admitted by me as fact, and that the Commission shall re-initiate the matter pending before the Court and/or the Commission at the time this *Stipulation* was executed.

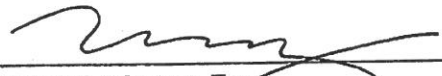
I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree 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.

  
\_\_\_\_\_  
HON. DOROTHY ENCINIAS  
Respondent

Dated: 3-19-2019

**DEFENSE COUNSEL REVIEW**


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

  
\_\_\_\_\_  
NATHAN E. WINGER, ESQ.  
Counsel for Respondent

Dated: 3-19-19

EXAMINER'S REVIEW AND APPROVAL

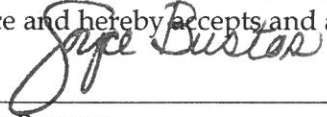
I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation*.

  
\_\_\_\_\_  
PHYLLIS A DOMINGUEZ ESQ.  
Examiner


Dated: 03/19/2019

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*.

  
\_\_\_\_\_  
JOYCE BUSTOS  
Chair

Dated: 3/19/19

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


Dated: 3/19/19

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. DOROTHY ENCINIAS  
Moriarty Municipal Court, Moriarty, New Mexico

Inquiry No. 2018-078

**FILED**  
AUG - 9 2018  
NM JUDICIAL  
STANDARDS COMMISSION



NOTICE OF FORMAL PROCEEDINGS

TO: Hon. Dorothy Encinias  
Moriarty Municipal Court  
P.O. Box 130  
Moriarty, New Mexico 87035

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 charge set forth below.

COUNT 1

You failed to immediately resign your position as Moriarty Municipal Court judge when you declared your candidacy for the position of Torrance County Commissioner in the June 6, 2018 primary.

Such conduct violates the Code of Judicial Conduct Rules 21-101 and 21-102 NMRA 2012 and Rule 21-405(C) NMRA 2015, and constitutes willful misconduct in office.

Exhibit  
A

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:

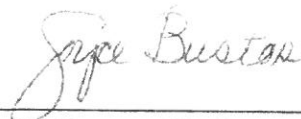
*Clerk of the Commission  
Judicial Standards Commission  
Post Office Box 27248  
Albuquerque, New Mexico 87125-7248*

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: \_\_\_\_\_

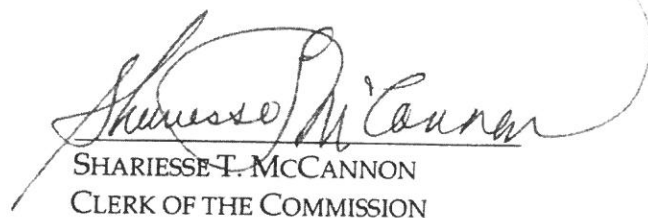


Joyce E. Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent certified mail returned receipt requested on this 9<sup>th</sup> day of August 2018 to the following:

Hon. Dorothy Encinias  
Moriarty Municipal Court  
P.O. Box 130  
Moriarty, New Mexico 87035

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. DOROTHY ENCINIAS  
Moriarty Municipal Court, Moriarty, New Mexico  
Inquiry No. 2018-078

**FILED**  
SEP 05 2018  
NM JUDICIAL  
STANDARDS COMMISSION

ANSWER TO NOTICE OF FORMAL PROCEEDINGS

COMES NOW Honorable Dorothy Encinias, by and through her counsel, Winger Law Firm (Nathan Winger, Esq.) and in accordance with Rule 16 of the Judicial Standards Commission Rules answers as follow:

1. In response to the allegation of Count 1 of the notice of Formal Proceedings, it is admitted that while the allegations are factually correct, it is denied that Judge Encinias knowingly violated the Code of Judicial Conduct Rules 21-101 and 21-102 NMRA and Rule 21-405(C) NMRA 2015. It is, however, undisputed that the Judge Encinias did not resign her position as Moriarty Municipal Court Judge when she declared her candidacy for the position of Torrance County Commission in the June 6, 2018 primary.

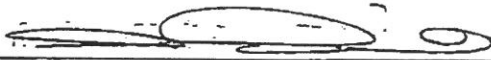
2. Prior to declaring her candidacy in the June 6, 2018 primary for Torrance County Commission, Judge Encinias sought independent legal advice on whether she could run in the primary election and remain on the bench as the part-time Moriarty Municipal Judge. Judge Encinias was advised she could seek election to the County Commission position while serving as a part-time Municipal Judge. Judge Encinias has learned this advice was incorrect.

3. At no time did Judge Encinias intend to violate any laws or the Judicial Code of Conduct, give the appearance of any impropriety and believed, based on the legal advice she received, that she her candidacy would violate any law or Judicial Code of Conduct.

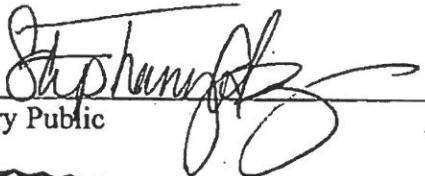
Exhibit  
B

4. Had Judge Encinias known that she would be violating the Judicial Code of Conduct, she would have either declined to run for a position on the Torrance County Commissioners or resigned as the Moriarty Municipal Judge to run.

5. Through her admission and explanation outlined, Judge Encinias requests leniency as to any outcome in this matter.

  
\_\_\_\_\_  
Judge Dorothy Encinias

SUBSCRIBED and SWORN to before me this 31 day of August, 2018, by Dorothy Encinias.

  
\_\_\_\_\_  
Notary Public

My commission expires:  
3/27/2022

