

From:

05/22/2013 10:42

#903 P.002/022

FAXED ORIGINAL

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

No.

IN THE MATTER OF HON. WILLAIM H. BROGAN
Twelfth Judicial District Court

INQUIRY CONCERNING HON. WILLIAM H. BROGAN
Inquiry Nos. 2011-145 & 2012-121

SUPREME COURT OF NEW MEXICO
FILED

MAY 22 2013



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

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

JUDICIAL STANDARDS COMMISSION
Post Office Box 27248
Albuquerque, New Mexico 87125-7248
Telephone: (505) 222-9353
Fax: (505) 222-9358

SHEEHAN & SHEEHAN PA
BRIGGS F. CIENEY, ESQ.
P.O. Box 271
Albuquerque, New Mexico 87103
Telephone: (505) 247-0411
Fax: (505) 842-8890

RANDALL D. ROYBAL
Executive Director & General Counsel

Counsel for Respondent

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

Deborah Borio
Investigative Trial Counsel

Counsel for Petitioner

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No.

FAX FILED	
Date	5-22-13
Time	10:48 AM
By	SPW

IN THE MATTER OF HON. WILLIAM H. BROGAN
Twelfth Judicial District Court

INQUIRY CONCERNING HON. WILLIAM H. BROGAN
Inquiry Nos. 2011-145 & 2012-121

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

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

JUDICIAL STANDARDS COMMISSION
Post Office Box 27248
Albuquerque, New Mexico 87125-7248
Telephone: (505) 222-9353
Fax: (505) 222-9358

SHEEHAN & SHEEHAN PA
BRIGGS F. CHENEY, ESQ.
P.O. Box 271
Albuquerque, New Mexico 87103
Telephone: (505) 247-0411
Fax: (505) 842-8890

RANDALL D. ROYBAL
Executive Director & General Counsel

Counsel for Respondent

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

Deborah Borio
Investigative Trial Counsel

Counsel for Petitioner

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

IN THE MATTER OF HON. WILLIAM H. BROGAN,
Twelfth Judicial District Court

INQUIRY CONCERNING HON. WILLIAM H. BROGAN
Twelfth Judicial District Court
JSC Inquiry Nos. 2011-145 & 2012-121

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

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

The Judicial Standards Commission of the State of New Mexico (“Petitioner” or “Commission”), through the undersigned counsel, hereby moves the Supreme Court for an order approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”) in which Respondent Hon. William H. Brogan agrees to permanently resign effective at 5:00 p.m. on May 24, 2013. (Attached hereto as **Exhibit A**). The Respondent further agrees to never again hold judicial office in

New Mexico in the future. The Commission believes this stipulation agreement best serves the interests of justice and the integrity of the New Mexico Judiciary.

1. Petitioner invokes its jurisdiction and files this *Petition to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Petition*”) pursuant to Petitioner’s power to recommend the discipline of judges and the Supreme Court’s power to discipline judges under N.M. Const. art. VI, §32; the Supreme Court’s power of superintending control under N.M. Const. art. VI, §3; and Judicial Standards Commission Rule 38 NMRA 2010.

2. On March 9, 2012 in Inquiry Nos. 2011-141 & 2012-121, the Commission filed and issued a *Notice of Preliminary Investigation* to Respondent, to which he responded on March 16, 2012. On May 1, 2013, the Commission filed and issued a *Notice of Formal Proceedings* (Attached hereto as **Exhibit B**) to Respondent to which he has not yet responded.

3. The Commission’s inquiries and proceedings concerning Respondent in these matters have been ongoing.

4. During negotiation of this agreement and, upon information and belief, in anticipation of this Court's approval of it, Respondent has tendered his resignation effective May 24, 2013. (Attached hereto as Exhibit C).

5. The Commission's jurisdiction continues in this matter pursuant to Judicial Standards Commission Rule 38 NMRA 2010.

6. Upon granting this *Petition* and in keeping with the Court's prior decisions in other matters, the Commission requests that the Supreme Court unseal the file in this matter pursuant to Rule 27-104(B) NMRA 2011, permitting the citizens and the Judiciary of New Mexico to be informed of the actions concerning Respondent, who is an elected official. The Respondent, however, requests that the matter remain sealed.

7. Upon a unanimous vote the Commission entered into a *Stipulation* with the Respondent on May 22, 2013 which provides in pertinent part the following:

A. Respondent agrees to permanently resign as judge of the Twelfth Judicial District Court effective at 5:00 p.m. on May 24, 2013. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation

to the Chief Justice of the New Mexico Supreme Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the 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.

B. 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 to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, attaching a copy of the *Stipulation*.

C. Upon granting the *Petition*, the Commission requests that the Court unseal the Supreme Court file in this matter pursuant to Rule

27-104(B) NMRA 2011. The Respondent requests that the matter remain sealed.

D. Upon execution of this *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close all pending matters before the Commission, Inquiry Nos. 2011-145 and 2012-121.

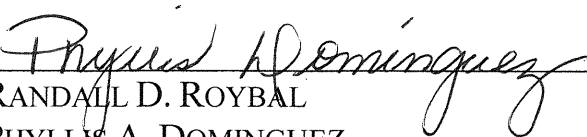
8. Upon Order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

9. It is in the best interests of justice and integrity of the New Mexico Judiciary that the Supreme Court issues an order accepting Respondent Hon. William H. Brogan's permanent resignation from judicial office.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's *Petition* and enter an order approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, accepting Respondent Hon. William H. Brogan's permanent resignation from judicial office.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

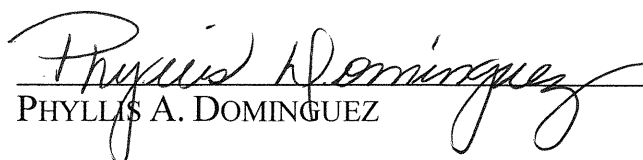

RANDALL D. ROYBAL
PHYLLIS A. DOMINGUEZ
DEBORAH L. BORIO
Post Office Box 27248
Albuquerque, NM 87125-7248
TEL (505) 222-9353

Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by facsimile and by first class mail, on this 22nd day of May 2013, to Counsel for the Respondent:

Briggs F. Cheney, Esq.
P.O. Box 271
Albuquerque, NM 87103-0271
Facsimile: (505) 842-8890


PHYLLIS A. DOMINGUEZ

FILED

MAY 22 2013

**NM JUDICIAL
STANDARDS COMMISSION**

**BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NEW MEXICO**

INQUIRY CONCERNING HON. WILLIAM H. BROGAN
Twelfth Judicial District Court

Inquiry Nos. 2011-145
2012-121

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

THESE MATTERS are currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Formal Proceedings* issued in Inquiry Nos. 2011-145 and 2012-121 on May 1, 2013.

This *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("Stipulation") is entered into by and between the Judicial Standards Commission and Hon. William H. Brogan ("Respondent"). Respondent is represented in this matter by Briggs Cheney, Esq. The parties hereby agree and stipulate as follows:

1. Respondent agrees to permanently resign as judge of the Twelfth Judicial District to be effective no later than 5:00 p.m. on the date the Court files the order. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the 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,

EXHIBIT

A

magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

2. 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 to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("Petition"), attaching a copy of the Stipulation.

3. Upon granting the *Petition* the Commission requests that the Court unseal the Supreme Court file in this matter pursuant to Rule 27-104(B) NMRA 2011. Pursuant to Rule 27-104(B) and in keeping with the Court's prior decisions in other matters, the Commission requests that the file in this matter be unsealed, permitting the citizens and the Judiciary of New Mexico to be informed of the actions concerning Respondent, an elected official. The Respondent, however, requests that the matter remain sealed.

4. Upon execution of this *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close all pending matters before the Commission (Inquiry Nos. 2011-145 and 2012-121).

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

6. This *Stipulation* is not enforceable unless fully executed by all parties.

7. 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.

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

9. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts and charges alleged in both the *Notice of Formal Proceedings* issued in Inquiry Nos. 2011-145 and 2012-121 on May 1, 2013, 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.


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

11. 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.

RESPONDENTS' REVIEW & APPROVAL

I have read and understand this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("*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. 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 as defined in this agreement under any circumstances, and that if I do hold any

judicial office at any point in the future, I will be in violation of this *Stipulation*, and could be held in contempt of the Judicial Standards Commission and the New Mexico Supreme 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 this matter are 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.



HON. WILLIAM H. BROGAN
Respondent

Dated: 5/20/2013

DEFENSE COUNSEL REVIEW & APPROVAL

I have reviewed the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* with my client. I have discussed this case with my client and I have advised my client of all applicable constitutional rights and possible defenses.

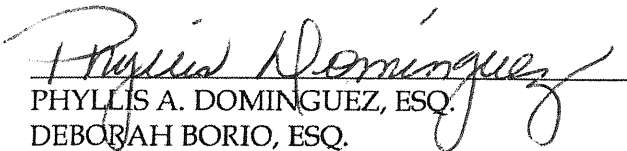
Telephonic Approval 5-22-13 / *pad*

BRIGGS CHENEY, ESQ.
Counsel for Respondent

Dated: May 22, 2013

EXAMINER'S REVIEW & APPROVAL

I have reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and find that it is appropriate and consistent with the best interests of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.

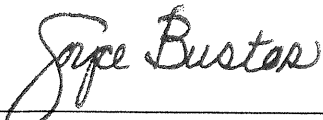

PHYLLIS A. DOMINGUEZ, ESQ.
DEBORAH BORIO, ESQ.

Examiners

Dated: 5/22/13

JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

The Commission has reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. Upon a majority vote of its members, the Commission hereby accepts, approves, and enters into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.



JOYCE BUSTOS
Chair

Dated: 5/22/13



RANDALL D. ROYBAL
Executive Director & General Counsel

Dated: 5/22/13

FILED

MAY - 1 2013

NM JUDICIAL
STANDARDS COMMISSION

**BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO**

INQUIRY CONCERNING HON. WILLIAM H. BROGAN
Twelfth Judicial District Court

Inquiry Nos. 2011-145
2012-121

NOTICE OF FORMAL PROCEEDINGS

Hon. William H. Brogan
12TH Judicial District Court
1000 New York Ave. #203
Alamogordo, New Mexico 88310-6928

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, pursuant to Rule 15 NMRA 2010 of the Judicial Standard Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or between January 3, 2011 and March 15, 2013 you failed to maintain competence in the performance of judicial duties or were unable to perform judicial duties competently and diligently. Examples of such conduct may include, but are not limited to: failing to seek and afford the necessary docket time to discharge adjudicative responsibilities by vacating hearings; failing to devote adequate time to judicial duties by not scheduling hearings except emergency hearings on Fridays and by not allowing hearings to be scheduled after 3:30 p.m.; failing to dispose of matters promptly and efficiently; failing to demonstrate due regard for the rights of parties to be heard; failing to be fair and impartial; demonstrating a lack of understanding or lack of knowledge regarding court processes, procedures and programs which required repeated explanations from court staff; demonstrating a lack of understanding or lack of knowledge on rudimentary courtroom procedures which required guidance and/or explanation from attorneys; failing to complete Judgment and Sentence forms accurately;

stating to parties that the Court is confused and tired; failing to know, follow and apply the Rules of Criminal Procedure; failing to know, follow and apply the Rules of Evidence; committing clear and/or egregious legal errors; and/or committing a pattern of legal error.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-205(A); 21-205(B); 21-206(A); 21-207; and/or 21-209 NMRA 2012 for conduct occurring on or after January 1, 2012; and, Rules 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(A), (B)(1), (B)(2), (B)(7), (B)(8), (C)(1), and/or (C)(2) NMRA 2009; and/or 21-500(A)(3) NMRA 1995 for conduct occurring prior to January 1, 2012.

COUNT II

On or between January 3, 2011 and March 15, 2013 you failed to follow the Rules of Criminal Procedure in *State v. Reynolds*, CR 2010-374 by misstating § 38-5-14 NMSA 1978; and in *State v. Younger*, CR 2012-521 by misstating Rule 5-401(H) NMRA 2010.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and/or 21-205(A) NMRA 2012 for conduct occurring on or after January 1, 2012; and Rules 21-100 NMRA 1995; 21-200(A) NMRA 1995; and/or 21-300(A), (B)(2), and/or (B)(8) NMRA 2009 for conduct occurring prior to January 1, 2012.

COUNT III

On or between January 3, 2011 and March 15, 2013 you failed to follow the Rules of Evidence in *State v. Euler*, CR 2010-435 by misstating Rule 11-1101(D)(d) NMRA 2012 and in *State v. Reynolds*, CR 2010-374 by misstating Rule 11-612 NMRA 2012.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and/or 21-205(A) NMRA 2012 for conduct occurring on or after January 1, 2012; and Rules 21-100 NMRA 1995; 21-200(A) NMRA 1995; and/or 21-300(A), (B)(2), and/or (B)(8) NMRA 2009 for conduct occurring prior to January 1, 2012.

COUNT IV

On or between November 1, 2011 and March 15, 2013 you failed to seek and/or dedicate the necessary docket time to discharge your adjudicative responsibilities by instituting policies such as no hearings except emergency hearings on Fridays, no hearings after 3:30 p.m., and by *sua sponte* vacating trial dockets.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-204(B); 21-205(A) and/or (B); 21-206(A); and/or 21-207 NMRA 2012 for conduct occurring on or after January 1, 2012; and Rules 21-100 NMRA 1995; 21-200(A) and/or (B) NMRA 1995; 21-300(A), (B)(1), (B)(2), (B)(8), and/or (C)(1) NMRA 2009; and/or 21-500(A)(3) and/or (4) NMRA 1995 for conduct occurring prior to January 1, 2012.

COUNT V

On or between December 1, 2011 and March 15, 2013 you engaged in harassing, retaliatory, and/or improper behavior against your former TCAA, Andrea Carrillo. Examples of such conduct may include, but are not limited to: interjecting or involving yourself in the Self-Help Center, which Ms. Carrillo manages; questioning Ms. Carrillo's supervisors about Ms. Carrillo's work ethic; alleging to Ms. Carrillo's supervisors that Ms. Carrillo was not performing

her duties by keeping the proper forms available; and/or questioning *pro se* litigants regarding the amount of help they received from Ms. Carrillo.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office: Rules 21-101; 21-102; 21-103; 21-201; 21-202; 21-203(B); 21-204(B); 21-205(B); 21-208(B); 21-212(A); and/or 21-216(B) NMRA (2012) for conduct occurring on or after January 1, 2012; and Rules 21-100 NMRA 1995; 21-200-(A) and/or (B) NMRA 1995; 21-300(A), (B)(2), (B)(4), (B)(5), and/or (C)(1) NMRA 2009; and/or 21-500(A)(1)(4) NMRA 1995 for conduct occurring prior to January 1, 2012.

COUNT VI

On or between May 1, 2011 and August, 31, 2011, failed to take sworn testimony from witnesses in the case of *Eiland v. Eiland*, DM 2010-331.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-100 NMRA 1995; 21-200(A) NMRA 1995; and/or 21-300(B)(2), and/or (B)(8) NMRA 2009.

COUNT VII

On or between October 1, 2012 and March 15, 2013 you attempted to initiate or permit *ex parte* contact with a *pro se* litigant by asking a staff member to provide information to the *pro se* litigant that would benefit the litigant in his or her case.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office: Rules 21-101; 21-102; 21-202; 21-204(B); 21-205(A) and/or (B); 21-206(A); 21-208(B); 21-209(A) and/or (B); 21-211(A); and/or 21-212(C) NMRA 2012.

COUNT VIII

On or between March 1, 2012 and March 15, 2013 you failed to comply with Art. VI, § 32 of the New Mexico Constitution and with Rule 8 of the Judicial Standards Commission Rules by failing to keep papers filed with or proceedings before the Judicial Standards Commission confidential.

Such conduct constitutes willful misconduct in office and violates Rules 21-101; 21-102; 21-202; 21-212; and/or 21-216(A) NMRA 2012 of the Code of Judicial Conduct; Article VI § 32 of the New Mexico Constitution; and/or Rule 8 of the Judicial Standards Commission Rules.

COUNT IX

On or about April 25, 2012 denied due process to the State of New Mexico by pronouncing sentence in *State v. Euler*, CR 2010-435 before allowing the State to argue its position on sentencing.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and/or 21-205(A) NMRA 2012.

COUNT X

On or about September 12, 2012 you violated the defendant's right to due process in the case of *State v. Reynolds*, CR 2012-374 by failing to require the defendant's presence during all communications between the court and the jury.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and/or 21-205(A) NMRA 2012.

COUNT XI

On or about November 7, 2012 you violated the defendant's constitutional right against double jeopardy in *State v. Wilson*, CR 2005-554 when you ordered a new trial after the defendant pleaded no contest in 2006, and after the defendant was sentenced and incarcerated for three years.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and/or 21-205(A) NMRA 2012.

COUNT XII

On or about November 7, 2012 you exceeded the jurisdiction of the district court by granting the defendant's motion to withdraw a plea agreement based on *Ineffective Assistance of Counsel* in *State v. Wilson*, CR 2005-554.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and 21-205(A) NMRA 2012.

COUNT XIII

On or about December 17, 2012 you sentenced the defendant, a sex offender, in *State v. Fanning*, CR 2010-437, to less probation than is mandated by § 31-20-5.2 NMSA 1978.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-204(B); and 21-205(A) NMRA 2012.

COUNT XIV

On or about February 25, 2013 you violated the State's due process right to be heard by vacating a trial setting in *State v. Miles*, CR 2012-00272 based on defense counsel's motion to continue which included a statement that the State did not concur with a continuance.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-203(A); 21-204(A); 21-205(A); and 21-206(A) NMRA 2012.

COUNT XV

On or about March 1, 2013 you violated the State's right to due process when you vacated a trial setting in *State v. Ontiveros*, CR 2011-00439 based only on defense counsel's motion to continue.

Such conduct violates the following provisions of the Code of Judicial Conduct and constitutes willful misconduct in office and/or persistent failure or inability to perform judicial duties: Rules 21-101; 21-102; 21-201; 21-202; 21-203(A); 21-204(B); 21-205(A); and 21-206(A) NMRA 2012.

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
P.O. Box 27248
Albuquerque, New Mexico 87125-7248*

Article VI, § 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



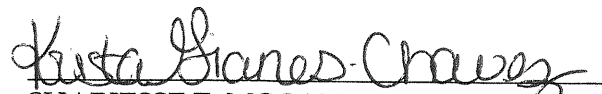
By: _____

JOYCE BUSTOS, Chair
Post Office Box 27248
Albuquerque, NM 87125-7248

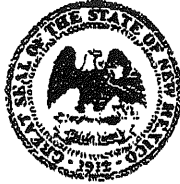
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent via certified mail, return receipt requested on this 1 day of May, 2013 to the following:

Hon. William H. Brogan
12th Judicial District Court
1000 New York Ave. #203
Alamogordo, NM 88310-6928



SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION for



State of New Mexico
Twelfth Judicial District

WILLIAM H. BROGAN
DISTRICT JUDGE DIVISION IV

1000 NEW YORK AVE., ROOM 203
ALAMOGORDO, NEW MEXICO 88310-6940
PHONE: (575) 439-1333
FAX: (575) 443-2448

DOROTHY J. MURPHY
TRIAL COURT ADMINISTRATIVE ASSISTANT

May 8, 2013

Honorable Susanna Martinez
Office of the Governor
State of New Mexico
490 Old Santa Fe Trail
Santa Fe, NM 87501

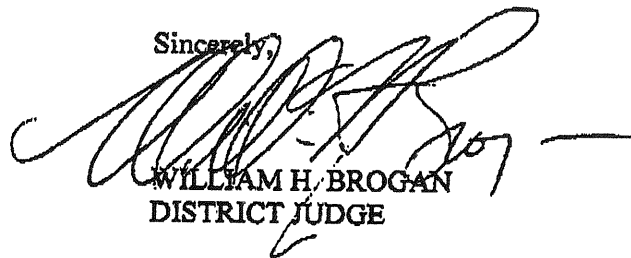
Honorable Petra Jimenez Maes
Chief Justice
New Mexico Supreme Court
supjim@nmcourts.gov

Barbara E. Bergman, Dean
UNM School of Law
1 University of NM MSC 11 6070
1117 Stanford NE
Albuquerque, NM 87131-0001

Dear Colleagues:

This is to advise you of my resignation/retirement from the bench effective midnight May 24, 2013. It has been a pleasure and privilege to serve the people of New Mexico as a District Judge.

Sincerely,



WILLIAM H. BROGAN
DISTRICT JUDGE

xc: Katina Watson, CEO 12th Judicial District
Liz Stuart, ehs@nmcourts.gov

EXHIBIT
C