

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

5-1-SC-35791

IN THE MATTER OF HON. GENE C. GALASSINI  
Otero County Magistrate Court Judge, Carlsbad, New Mexico

INQUIRY CONCERNING HON. GENE C. GALASSINI  
JSC Inquiry No. 2015-074

RECEIVED

MAR 11 2016

NM JUDICIAL  
STANDARDS COMMISSION

FILED UNDER SEAL  
PURSUANT TO 27-104(B) NMRA 2011

PETITION TO ACCEPT STIPULATION IN LIGHT OF  
PERMANENT RESIGNATION FROM JUDICIAL OFFICE

JUDICIAL STANDARDS COMMISSION  
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*Counsel for Petitioner*

*Counsel for Respondent*

SUPREME COURT OF NEW MEXICO  
FILED

MAR - 8 2016



IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. GENE C. GALASSINI  
Otero County Magistrate Court Judge, Carlsbad, New Mexico

INQUIRY CONCERNING HON. GENE C. GALASSINI  
JSC Inquiry No. 2015-074

FILED UNDER SEAL  
PURSUANT TO 27-104(B) NMRA 2011

PETITION TO ACCEPT STIPULATION IN LIGHT OF  
PERMANENT RESIGNATION FROM JUDICIAL OFFICE

The Judicial Standards Commission of the State of New Mexico (“the Commission”), through the undersigned counsel, hereby petitions the Supreme Court for an order approving the *Stipulation in Light of Permanent Resignation from Judicial Office* (“*Stipulation*”), attached hereto as **Exhibit 1**. The Commission further requests that the Court unseal the entire file in this matter, pursuant to Rule 27-104(B) NMRA 2011. The Commission believes this stipulation agreement best serves the interest 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 New Mexico Constitution Article VI, Section 32, and the Court's power of superintending control under New Mexico Constitution Article VI, Section 3.

2. Hon. Gene C. Galassini ("Respondent") submitted a letter of resignation to this Court on February 29, 2016.

3. The Commission entered into a *Stipulation* with the Respondent which provides in pertinent part the following:

A. Respondent voluntarily resigned from judicial office effective February 29, 2016 in a letter to New Mexico Court Chief Justice Barbara Vigil, (attached . . . as Exhibit F [to the stipulation]), and prior to a hearing before and making this *Stipulation* with the Commission.

B. The Commission has jurisdiction over the Respondent and the above-captioned and numbered matter pursuant to Article VI, Section 32 of the Constitution of the State of New Mexico; §§34-10-1 through 34-10-4 NMSA 1978, as amended; and the Judicial Standards Commission Rules.

C. 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

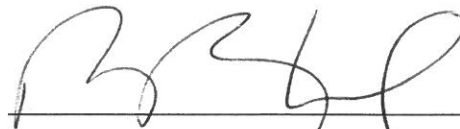
the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings.

4. Upon Order from this Court, the attached *Stipulation* is enforceable before the Supreme Court.

5. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court grants this petition.

WHEREFORE, the Commission respectfully requests this Court issue an order granting the Commission's petition approving the *Stipulation in Light of Permanent Resignation from Judicial Office* and ordering that Respondent's resignation from judicial office be permanent and effective as of February 29, 2016. The Commission also requests that this order unseal all documents filed in the Supreme Court in this case pursuant to Rule 27-104(B) NMRA 2011.

Respectfully submitted,  
JUDICIAL STANDARDS COMMISSION



\_\_\_\_\_  
RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*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 true copy of the foregoing was sent by

First Class mail on this 7 day of March 2016 to:

STEVEN S. SCHOLL, ESQ.  
Dixon, Scholl, & Carillo, P.A.  
P.O. Box 94147  
Albuquerque, NM 87199-4147  
(505) 244-3890  
Fax: (505) 244-3889

*for*   
\_\_\_\_\_  
PHYLLIS A. DOMINGUEZ

**FILED**

MAR 07 2016

HGC

NM JUDICIAL

STANDARDS COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
STATE OF NEW MEXICO

INQUIRY CONCERNING HON. GENE C. GALASSINI  
Otero County Magistrate Court

Inquiry No. 2015-074

STIPULATION IN LIGHT OF PERMANENT RESIGNATION FROM JUDICIAL OFFICE

THIS MATTER is currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Preliminary Investigation* issued on August 6, 2015, (attached hereto as **Exhibit A**); Hon. Gene C. Galassini's ("Respondent") response to the *Notice of Preliminary Investigation* filed on August 28, 2015, (attached hereto as **Exhibit B**); pursuant to a *Notice of Formal Proceedings* issued on December 23, 2015 (attached hereto as **Exhibit C**); Respondent's response to the *Notice of Formal Proceedings* filed on February 2, 2016 (attached hereto as **Exhibit D**); and *Amended Notice of Formal Proceedings* issued February 3, 2016 (attached hereto as **Exhibit E**).

This *Stipulation in Light of Permanent Resignation from Judicial Office* ("Stipulation") is entered into by and between the Judicial Standards Commission and Respondent. Respondent is represented by Steven S. Scholl. The parties hereby agree and stipulate as follows:

1. Respondent voluntarily resigned from judicial office effective February 29, 2016 in a letter to New Mexico Supreme Court Chief Justice Barbara Vigil, (attached hereto as **Exhibit F**), and prior to a hearing before and making this *Stipulation* with the Commission.
2. The Commission has jurisdiction over the Respondent and the above-captioned and numbered matter pursuant to Article VI, Section 32 of the Constitution of the State of New

EXHIBIT  
1

**INQUIRY CONCERNING HON. GENE C. GALASSINI Inquiry No. 2015-074**  
**Stipulation in Light of Permanent Resignation from Judicial Office**  
**Page 2**

Mexico; §§34-10-1 through 34-10-4 NMSA 1978, as amended; and the Judicial Standards Commission Rules.

3. 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. The Commission will file under seal with the New Mexico Supreme Court pursuant to Rule 27-104(B) NMRA 2011 a *Motion to Accept Stipulation in Light of Permanent Resignation from Judicial Office ("Motion")*, attaching a copy of the *Stipulation*, a copy of the *Notice of Preliminary Investigation*, *Notice of Formal Proceedings*, *Amended Notice of Formal Proceedings* and Respondent's responses issued in Inquiry No. 2015-074. Respondent voluntarily resigned prior to filing a response to the *Amended Notice of Formal Proceedings*; however, Respondent denies the allegations contained in the *Amended Notice of Formal Proceedings*.

5. Upon granting the *Motion*, and pursuant to Rule 27-104(B), the Supreme Court file in this matter shall be unsealed.

6. Upon execution of this *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close all pending matters before the Commission (Inquiry No. 2015-074).

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

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

9. 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.

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

11. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts alleged in both the *Notice of Preliminary Investigation* and *Notice of Formal Proceedings* issued in Inquiry No. 2015-074 and which were 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.

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

13. 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.

14. The parties agree to bear their own costs and attorney fees.



**INQUIRY CONCERNING HON. GENE C. GALASSINI Inquiry No. 2015-074  
Stipulation in Light of Permanent Resignation from Judicial Office  
Page 4**

**RESPONDENT'S REVIEW & APPROVAL**

I have read and understand this *Stipulation in Light of Permanent Resignation from Judicial Office* ("*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 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 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-trial all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation* was executed.

  
MR. HON. GENE C. GALASSINI  
Respondent

Dated: 5/2/16

**DEFENSE COUNSEL REVIEW & APPROVAL**

I have reviewed the *Stipulation in Light of Permanent Resignation from Judicial Office* 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.

  
STEVEN S. SCHOLL  
Counsel for Respondent

Dated: 03.02.16

RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation in Light of Permanent Resignation from Judicial Office ("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 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 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.

\_\_\_\_\_ Dated: \_\_\_\_\_

HON. GENE C. GALASSINI  
*Respondent*

DEFENSE COUNSEL REVIEW & APPROVAL

I have reviewed the *Stipulation in Light of Permanent Resignation from Judicial Office* 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.

\_\_\_\_\_ Dated: \_\_\_\_\_

STEVEN S. SCHOLL  
*Counsel for Respondent*

EXAMINER'S REVIEW & APPROVAL

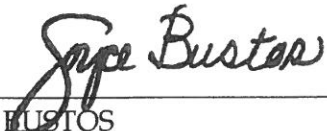
I have reviewed this *Stipulation in Light of Permanent Resignation from Judicial Office* and find that it is appropriate and consistent with the best interests of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation in Light of Permanent Resignation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

  
\_\_\_\_\_  
RHYLLIS A. DOMINGUEZ  
Examiner


Dated: 3/7/2016

JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

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

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

Dated: 3/7/16

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

Dated: 3/7/16



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
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RANDALL D. ROYBAL  
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ  
Investigative Trial Counsel

DEBORAH BORIO  
Investigative Trial Counsel

August 6, 2015

CONFIDENTIAL  
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Hon. Gene C. Galassini  
Otero County Magistrate Court  
263 Robert H. Bradley Dr.  
Alamogordo, New Mexico 88310

Re: Inquiry No. 2015-074

**FILED**  
AUG 06 2015  
NM JUDICIAL  
STANDARDS COMMISSION



Dear Judge Galassini:

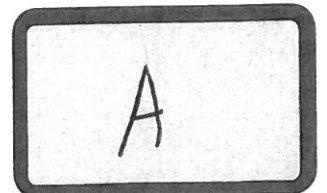
The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written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

It has been alleged that you have adjudicated cases outside the presence of a representative of the state utilizing a pre-signed Plea and Disposition form signed by an Assistant District Attorney.

It has been alleged that on or about April 16, 2015 you adjudicated the case of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193, utilizing a pre-signed Plea and Disposition Agreement form falsely attesting that the assistant district attorney was present at the hearing.

It has been alleged that on or about April 16, 2015 you held an *ex parte* hearing in the matter of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193, and adjudicated the case outside the presence of a representative of the state.

It has been alleged that on or about May 11, 2015 you adjudicated the case of *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, utilizing a pre-signed Plea and Disposition Agreement form falsely attesting that the assistant district attorney was present at the hearing.



It has been alleged that on or about May 11, 2015 you held an *ex parte* hearing in the matter of *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, and adjudicated the case outside the presence of a representative of the state.

It has been alleged that on or about April 16, 2015 you adjudicated the case of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, utilizing a pre-signed Plea and Disposition Agreement form falsely attesting that the assistant district attorney was present at the hearing.

It has been alleged that on or about April 16, 2015 you held an *ex parte* hearing in the matter of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, and adjudicated the case outside the presence of a representative of the state.

It has been alleged that on or about October 23, 2012 you deferred the sentence of the defendant in the matter of *State of New Mexico v. Kaylene House*, M-38-TR-2012-02544, without requiring the defendant's presence at the hearing.

It has been alleged that on or about October 22, 2014 you deferred the sentence of the defendant in the matter of *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-02833, without requiring the defendant's presence at the hearing.

It has been alleged that on or about October 30, 2014 you had an *ex parte* hearing in the matter of *State of New Mexico v. John Brown*, M-38-TR-2014-03053. You deferred the defendant's sentence without requiring the presence of the state.

It has been alleged that on or about October 30, 2014 you had an *ex parte* hearing in the matter of *State of New Mexico v. Kaylene House*, M-38-TR-2014-03048. You deferred the defendant's sentence outside the presence of a representative of the state.

It has been alleged that on or about May 11, 2015 you conducted an *ex parte* hearing in the matter of *State of New Mexico v. Tommie Jean Braziel*, M-38-TR-2015-1298. You deferred the defendant's sentence outside the presence of a representative of the state.

It has been alleged that on or about May 28, 2015 in the matter of *State of New Mexico v. Nick Chacon*, M-38-TR-2004-01344 you gave the impression that the defendant was in a position to influence you when you personally vouched for the defendant. The defendant did not have his driver's license with him, as required by the court, when attempting to make a payment by personal check. You approached the court clerk at the front window and personally vouched for the defendant. You told the clerk court that you knew the defendant and he did not need to produce his driver's license contrary to magistrate court rules. The personal check was then processed by the court clerk.

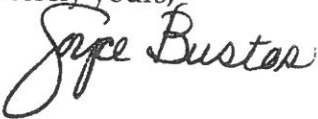
It has been alleged that you fail to be patient, dignified and/or courteous to court staff and address staff in a demeaning manner.

It has been alleged that you failed to be patient, dignified or courteous when you used profanity in open court.

Hon. Gene C. Galassini  
August 6, 2015  
Page 3

Please provide the Commission with an explanation of these incidences 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,

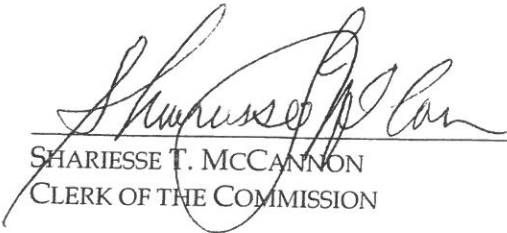


Joyce Bustos  
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 6<sup>th</sup> day of August 2015, by certified mail, return receipt requested to:

Hon. Gene C. Galassini  
Otero County Magistrate Court  
263 Robert H. Bradley Dr.  
Alamogordo, New Mexico 88310



---

SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

Judge Gene C. Galassini  
Otero County Magistrate Court  
263 Robert H. Bradley Dr.  
Alamogordo, NM 88310

**FILED**

AUG 28 2015

**NM JUDICIAL  
STANDARDS COMMISSION**

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

August 24, 2015

RE: Inquiry 2015-074

Members of the Judicial Standards Commission:

In response to your inquiries:

In the matter of State of New Mexico v. Emmett Rumsey M-38-MR-2014-193 and M-38-MR-2015-233, I used a pre-signed Plea and Disposition agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office. Mr. Rumsey and attorneys from the District Attorney's Office had previously negotiated a plea agreement and the plea agreement was left in the court's files. Thereafter, Mr. Rumsey failed to appear and then surrendered himself to the court on April 16, 2015, during our walk-in session. Mr. Rumsey provided proof of reinstatement of his New Mexico Driver's License, so I accepted the previously negotiated plea agreement. Commonly, no representatives from the DA's Office attends walk-in sessions.

In the Matter of State of New Mexico v. Felton Nichols, I used a pre-signed Plea and Disposition agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office. Mr. Nichols appeared before the court at walk-ins and provided proof of his driver's license reinstatement. Ms. Rojas from the DA's Office had signed the Plea and Disposition Agreement. My intent in reflecting she was present was to show she was the one offering the plea and that the State had input in the process.

Since I began as a magistrate, the District Attorney's Office has had a policy to offer defendants a plea to "Drivers to be Licensed" if that defendant has reinstated their license when charged with Driving on a Suspended License (not for DWI). At arraignment the defendants are advised of the penalties for Driving on a Suspended License and further told that if they reinstate their privilege, the State of New Mexico will offer them a plea to Drivers to be Licensed. This offer excludes no one and is a well-known practice in Alamogordo and to the local bar. The DA's Office, has agreed that anytime a defendant appears for arraignment with a valid driver's license they extend an offer to "Drivers to be Licensed." (Exhibit 1). In referring to 6-502 (D) (5) I thought I was doing the right thing by informing defendant of a standard plea offer by the State of New Mexico. Perhaps I misinterpreted the Rule.

Subsequent remedial measures taken, I have discontinued use of these plea and disposition agreements.

B

In the matter of State of New Mexico v. Kaylene House, M-38-TR-2012-2544, I can recall both her and her father in court. Ms. House was a juvenile which required a parent to be present. I contacted Mr. House to see if he remembered the incident and has provided the attached statement. Rule 6-503 allows dispositions without a hearing. (Exhibit 2)

In the matter of State of New Mexico v. Corinne Prudencio, M-38-TR-2014-2833; I admit I performed this hearing by phone in order to accommodate Ms. Prudencio's personal needs. Ms. Prudencio was ill and was in fear of receiving a warrant. Subsequent remedial measures taken are to understand the importance of a personal appearance and not allowed my compassion to dictate my actions. I understand there are Appearance Plea and Waiver forms that can be sent to the defendant to mail in to the court, or to conduct an appearance by phone. The Administrative Office of the Courts has recently created an avenue for this telephonic process. (Exhibits 3 and 4).

In the Matters of State of New Mexico v. John Brown, M-38-TR-2014-3035, and Kaylene House, M-38-TR-2014-3048, I decided to proceed to sentencing after arraignment. The State of New Mexico is aware of our walk-in arraignment session from 8:00 A.M. to 9:30 A.M., Monday through Friday and are rarely present. Rule 6-503 allows the court to dispose of a matter without a hearing for traffic related matters.

Subsequent remedial measures taken is to insure a clerk is present in the courtroom for the issuance an agreement to pay. Unfortunately, some defendants bypass the clerk's window when departing the courtroom or we are short staffed and the proper paperwork is not generated at the front window and agreement to pay is issued.

In the matter of the State of New Mexico v. Tommie Jean Braziel, M-38-TR-2015-1298; The clerk showed Ms. Braziel to my office. When I asked, what I could do for her? She removed a citation from her purse. I explained to her that she could not do that and she would have to go into the court room. I retrieved the case file from the clerk that escorted her in and went to the bench. I performed an arraignment and she entered a no contest plea. At sentencing she asked for a deferred adjudication. I looked at NM COURTS and saw where she had not been in before and granted her a deferment.

Subsequent remedial measures taken is to insure a clerk is present to eliminate any appearance of impropriety. In hindsight, I should have recused when she withdrew the citation from her purse. Hopefully, court staff will be more vigilant with defendants that appear.

In the matter of State of New Mexico v. Nick Chacon M-38-TR-2004-1344. On May 21, 2015, Mr. Chacon was present at a reimposition of sentence. The case file reflects that he returned May 28, 2015, and paid his fine and fees. I recall walking past Ms. Johnson's work area. I recall him standing at the window. I walked into a conversation that I had no business being in the midst of. I don't remember vouching for the validity of his payment, only as to who he was. I'm sure the complainant's memory is better than mine as to the specifics of the encounter. I was also unaware that a policy existed to require ID when tendering a check. The court accepts hundreds of checks per month via mail and also has an after hours drop- box for payments. Mr. Chacon could have simply walked from the front clerks' area to the back door and dropped it in the after hours drop slot or simply mailed it. I just happened by chance to see Mr. Chacon on August 17, 2015, at a local restaurant. I asked Mr. Chacon if he felt that I pressured Ms. Johnson to accept his check? He looked



puzzled and said, "no, she couldn't find my paperwork and all you told her was the fine was \$65.00." I asked, Did you present an ID? He replied, "she didn't ask for one." I left the conversation at that.

Subsequent remedial measures taken is to limit contact with front office personnel that are not involved with the hearing. Eliminate any contact with litigants after hearings to insure any statements made by me are not taken in any other manner than intended.

As to the complaint that I acted impatient, undignified, or discourteous. I am unable to address any specific issues related to this complaint. While I strive to be patient, dignified and courteous to citizens, defendants, staff and attorneys, I am certain that I have had bad days. I will strive to make all days acceptable and appropriate.

The only time that I recall using any type of profanity was on a recent visit by family of a defendant that was brought into the court room by a clerk. The family wanted to present me with a letter from a defendant, which I denied. I explained the reason for my refusal and to file it with the clerk, and I would set the matter for a hearing. When they asked what he had done, I quoted the defendant and basis for the contempt, "you can shove it up your ass." The defendant had committed the act of direct contempt on a prior occasion and was being held on a probation violation. I am sure that I have used an occasional "damn" or "hell" but it is not my normal behavior to use profanity. This again is an instance that a court clerk brought the family into the courtroom and presented me with a file.

Subsequent remedial measures taken is to limit my conversations in court, set matters for a hearing and encourage the interested parties to attend and to be more aware of even uttering any profanity.

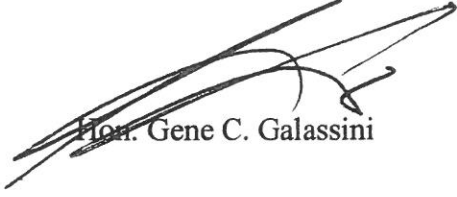
I have also reviewed the Judicial Ethics Handbook provided by the Judicial Education Center of New Mexico, in an effort to keep from finding myself in this situation ever again. I am above this type of behavior. I am embarrassed personally but more importantly embarrassed for bringing the judiciary into disrepute. I have compiled some of the more important principles and have placed a copy on my bench for daily review.

- 1) When in doubt, recuse.
- 2) Recuse if there is anything more than a de minimis acquaintance.
- 3) Be aware of appearances, not merely actual conduct.
- 4) Make sure friends and family know there are limitations on my conduct.
- 5) Transparency will go a long way to mitigate possible conflict.
- 6) Consult the advisory counsel if I have a question.

The ongoing propensity of ex parte by the clerk staff caused the court to issue the attached memo in May 2015. This Policy was established to prevent clerks from attempting to accommodate people appearing and wanting to "see a judge." (Exhibit 5). It had become an on going problem and an end needed to happen.

I appreciate these matters being brought to my attention. I am confident that I will do better and never allow myself to be placed in these types of situations.

Respectful submitted,



Hon. Gene C. Galassini

STATE OF NEW MEXICO

v.

No. \_\_\_\_\_

\_\_\_\_\_, Defendant

**PLEA AND DISPOSITION AGREEMENT**

The State of New Mexico and the defendant, hereby agree to the following disposition of this case:

**Plea:** The defendant agrees to plead **NO CONTEST** to the following offenses: Driver must be licensed. 66-5-2 NMSA 1978.

1. That the following disposition will be made of the charges: Sentencing is at the discretion of the court, the possible range of penalties are: 0-90 days in jail, \$0-\$300.00 fine or both.
2. That the following charges will be dismissed, or if not yet filed, shall not be brought against the defendant:  
Driving while license suspended. (not for DWI) 66-5-39 NMSA 1978.
3. That this agreement, unless rejected or withdrawn, serves to amend the complaint to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.
4. Unless this plea is rejected or withdrawn, that the defendant hereby gives up any and all motions, defenses, objections or requests which the defendant has made or raised, or could assert hereafter, to the court's entry of judgment and imposition of a sentence consistent with this agreement.
5. That, if after reviewing this agreement and any pre-sentence report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement shall be null and void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any criminal proceedings.

I have read and understand the above. I understand that by pleading **no contest**, I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, my privilege against self-incrimination, and my right to appeal my conviction. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this agreement, I am granted probation, a suspended sentence or a deferred sentence by the court, the terms and conditions thereof are subject to modification in the event that I violate any of the terms or conditions imposed.

\_\_\_\_\_  
Date Defendant

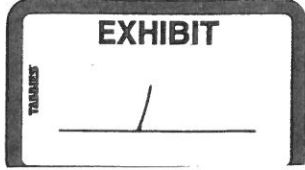
\_\_\_\_\_  
Date Defense Attorney

I have reviewed this matter and concur that the plea and disposition set forth herein is appropriate and is in the interests of justice.

Approved:

\_\_\_\_\_  
Date Prosecutor

\_\_\_\_\_  
Date Magistrate Judge



August 17, 2015

To Whom it May Concern,

I can attest that sometime around October of 2012, my daughter KayLene received a speeding citation on HWY 70 W, Otero County, New Mexico. We appeared in Judge Galassini's court regarding the citation.

Judge Galassini scolded KayLene and deferred her citation. I recall him asking for a mailing address and phone number, I gave him mine. (KayLene resided at my residence at the time of the citation) His scolding must not have worked as she received another citation approximately two years later, this time on Hwy 54-70, Otero County, New Mexico. KayLene handled this citation on her own. I did speak with her regarding the second citation and she said that there was some glitch in the system but she assured me she had got it taken care of.

I am apologizing in advance for my children's driving behavior, as not only do I have KayLene but I have another 16 year old daughter "Kori" and a son who is 14, "Kamron". Kamron will be taking Drivers Education in the spring of 2016. I truly hope the courts won't have an opportunity to meet them, unlike their older sister.

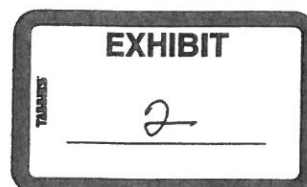
I can be reached at 575-551-1962



Benny House  
PO Box 1327  
Alamogordo, NM 88311

or

46 Jim Day Lane,  
Tularosa, NM



Zimbra

alamgcg@nmcourts.gov

---

**[MJudge] [Magistrates] Telephonic Appearance Plea and Waiver**

---

**From :** CCM, MJudge, MagCourts and WEP lists  
<magistrates@nmcourts.gov>

Mon, Aug 03, 2015 01:45 PM

**Sender :** mjjudge-bounces@nmcourts.gov

**Subject :** [MJudge] [Magistrates] Telephonic Appearance Plea and Waiver

**To :** magistrates <magistrates@nmcourts.gov>

**Cc :** Chris Preston <cpreston@nmcourts.gov>

**Reply To :** magistrates@nmcourts.gov

All,

JID has placed a new form in Odyssey, the Telephonic Appearance Plea and Waiver. This form may be used when a Judge does a telephonic arraignment with the defendant. The judge should sign the form in the appropriate area, file stamp the form, keep a copy of the form in the file and send the original to the defendant for signature, completion and return to the court. If the form is mailed to the defendant, the clerk should add a due event to make sure the form is returned to the court timely and if not, follow up. The clerk should enter: Event 9625 - Due: Appearance Plea & Waiver - in the comment field note that it was a Telephonic APW form

**NOTE:** If the judge does not personally speak to the defendant and take the plea, this form should not be used, rather the clerk should continue to use the regular Appearance Plea and Waiver form.

Thank you,  
Karen P. Mitchell  
Harding County Magistrate Judge  
P.O. Box 9  
Roy, NM 87743  
(575) 485-2549 phone  
(575) 485-2407 fax

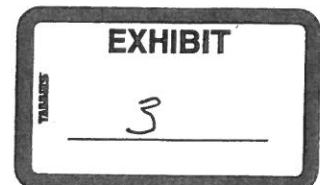
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Magistrates mailing list  
Magistrates@nmcourts.gov  
<http://mailman-vm1.nmcourts.gov/mailman/listinfo/magistrates>

---

MJudge mailing list  
MJudge@nmcourts.gov  
<http://mailman-vm1.nmcourts.gov/mailman/listinfo/mjudge>

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State of New Mexico

v  
TOMMIE JEAN BRAZIEL, Defendant

No. M-38-TR-2015-01298

**TELEPHONIC APPEARANCE, PLEA AND WAIVER**

I acknowledge that I have been charged with a violation(s) of the following traffic offense(s) with maximum fines as follows:

(List offenses and maximum fines.)

66-7-301	Speeding (over By 11 - 15)	fine of	up to \$300.00
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I further confirm that I have received a copy of the complaint, and I have read and understand the crime(s) charged.

I have been informed of my rights, as follows:

1. The right to personally appear before the court at every stage of these proceedings;
2. The right to a trial before the judge;
3. The right to present witnesses on my behalf and to confront and cross-examine witnesses;
4. The right to remain silent and that any statement made by me may be used against me;
5. The right to hire a lawyer.

I further understand that there is a penalty, as reflected above, provided by law for the offense or offenses for which I am charged. In addition, I must pay court fees up to \$62.00 per violation. I may pay an additional one-time \$20.00 docket fee depending on the charges and if I plead not guilty and am found guilty. I may also have points assessed against my New Mexico driver's license.

I understand that I have the right to personally appear before the Otero County Magistrate Court in Alamogordo and I give up that right.

I further acknowledge that I was arraigned by the Judge telephonically on 08/18/2015, and voluntarily entered my plea of:

**No Contest to the above charge(s).** (A plea of No Contest means that you neither admit nor deny the charge or charges, but that you are not contesting the charge and do not want a trial.)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant Signature

\_\_\_\_\_  
Date of Birth      Y / N      Under 18?      Social Sec. No.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Mailing Address (print)

\_\_\_\_\_  
Physical Address (print)

\_\_\_\_\_  
City, State and Zip Code (print)

\_\_\_\_\_  
City, State and Zip Code (print)

\_\_\_\_\_  
Daytime Phone      Cell Phone

I have a commercial driver's license: Y / N

**CERTIFICATE BY JUDGE**

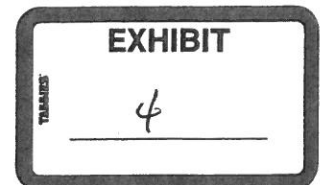
I have explained to the defendant his right to personally appear before the court at all stages of the criminal proceedings and I am satisfied that he understands the waiver of this right.

Date: \_\_\_\_\_

\_\_\_\_\_  
Gene C. Galassini, Judge

**RETURN BY 08/28/2015 TO:**

Otero County Magistrate Court in Alamogordo, 263 Robert H. Bradley Drive Alamogordo NM 88310  
Phone: 575-437-9000 Fax: 575-439-1365



**POLICY REGARDING COURT FILES AND EX PARTE CONTACT**

1. No person, including court staff, court officers, law enforcement, parties, or their family members may request a private audience with the judge regarding a pending or impending case.
2. All court business must be done in the courtroom. The only exception is where an approved local rule authorizes the clerk to handle a traffic matter at the lobby window, application for a warrant by law enforcement, or in chambers consultation where all parties are present.
3. The clerk of the court is the custodian of files. Generally, files may not be removed from the clerks office or judge's chambers for any reason. The only exception is where the files is in use or requested by the judge or clerk. From time to time the judge may request the probation officer to get the file from the clerk for court business. MCP and DWI supervision officers have permission to review and copy files pertinent to their duties. Any other request to view court files must be done from the lobby in the same manner as any member of the public.
4. Court clerks shall have a duty to enforce this policy by bringing any infraction to the attention of the court manager. The court manager will report any infraction to the presiding judge.
5. Any ex parte contact or abuse of the privileges regarding files may result in disciplinary action or be considered a contempt of court and dealt with appropriately.
6. The court manager will disseminate this policy to court staff and the MCP and DWI offices, who will sign a written acknowledgment of their receipt and understanding of the policy.

James S. Newton  
Otero County Magistrate Court, Div. 2  
Presiding

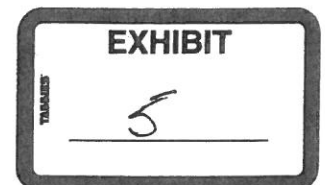
**ACKNOWLEDGMENT**

I hereby acknowledge reading and understanding the above policy on files and ex parte contact.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

**FILED**

DEC 23 2015

**NM JUDICIAL  
STANDARDS COMMISSION**

INQUIRY CONCERNING HON. GENE C. GALASSINI  
Otero County Magistrate Court

Inquiry No. 2015-074

NOTICE OF FORMAL PROCEEDINGS

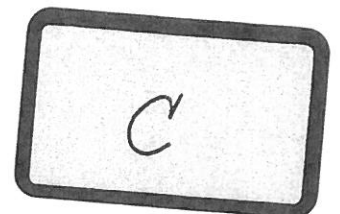
TO: Hon. Gene C. Galassini  
c/o Steven S. Scholl, Esq.  
Dixon, Scholl, & Bailey, P.A.  
P.O. Box 94147  
Albuquerque, New Mexico 87199-4147

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

COUNT 1

In the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337; and, *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, you accepted plea agreements and sentenced the defendants to a lesser-included offense of Driver Must Be Licensed and dismissed charges of Driving While License Suspended (not for DWI) without the State being present. You used Plea and Disposition agreement forms that were previously signed by Assistant District Attorney Erika Rojas, falsely attesting to Ms. Rojas' presence at the plea hearings.

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





**COUNT 2**

You materially participated in plea agreement proceedings in the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337; and, *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, and accepted the defendants' pleas without the State being present, contrary to Rule 6-502(D) NMRA.

Such conduct violates Rules 21-101, 21-102, 21-202, and 21-205(A) NMRA 2012 of the Code of Judicial Conduct and constitutes willful misconduct in office.

**COUNT 3**

You conducted *ex parte* hearings on charges of Driving on a Suspended License (not for DWI) by failing to require the State's presence in the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, and *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233.

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

**COUNT 4**

On or about October 30, 2014, you adjudicated the case of *State of New Mexico v. John Brown*, M-38-TR-2014-03053, without the State's presence and without requiring the defendant's presence, as noted by the lack of the defendant's signature on the Magistrate Court's sign-in sheet and by the lack of the defendant's signature on the Judgment and Sentence form. It appears that you signed, or caused to be signed by someone other than the defendant, the defendant's name on the Judgment and Sentence form falsely attesting to the defendant's presence.

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

COUNT 5

On or about October 22, 2014, in *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833, you deferred the defendant's sentence at her sister (Otero County Misdemeanor DWI Compliance Officer), Maria Garcia-Olayo's request and conducted an *ex parte* hearing.

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

COUNT 6

You misrepresented your actions in your response to the *Notice of Preliminary Investigation* regarding *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833, by stating that you held a telephonic hearing with Ms. Prudencio when in fact you conducted an *ex parte* hearing with Ms. Prudencio's sister, Maria Garcia-Olayo.

Such conduct Violates Rules 21-101, 21-102 and 21-216(A) NMRA 2012 of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 7

On or about May 28, 2015, you personally vouched for the identity of the defendant in *State of New Mexico v. Nick Chacon*, M-38-TR-2004-1344, when the defendant did not have proof of identification to present to a court clerk.

Such conduct violates Rules 21-101, 21-102, and 21-202 NMRA 2012 of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 8

You failed to be patient, dignified and courteous to court staff when you:

(1) Admonished and embarrassed a court clerk in open court for typing an appeal amount on a Judgment and Sentence form that was in accordance with the judgment, but

was different from what you ordered;

(2) Embarrassed a court clerk in open court when the clerk questioned you because the clerk could not read your writing;

(3) Embarrassed and was rude to a court clerk where members of the public were present telling the clerk that the clerk had incorrectly completed a form. When the clerk told you that she was doing what she was trained to do you replied, "This is my court and this is how I want it done;" and,

(4) Admonished a court clerk for not processing court files correctly and when the clerk told you that she was processing files according to the her training, and if you disagreed with the process that you should speak to her supervisor, you told the clerk words to the effect that you were the judge and did not have to discuss anything with a supervisor.

Such conduct violates Rules 21-101, 21-102 and 21-208(B) NMRA 2012 of the Code of Judicial Conduct 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:**

*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



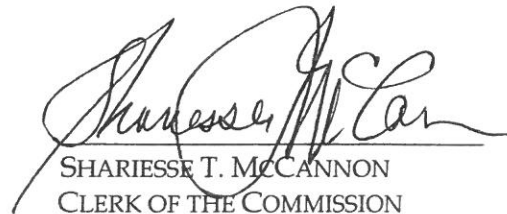
By: \_\_\_\_\_

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 23<sup>rd</sup> day of December 2015 to the following:

Hon. Gene C. Galassini  
c/o Steven S. Scholl, Esq.  
Dixon, Scholl, & Bailey, P.A.  
P.O. Box 94147  
Albuquerque, New Mexico 87199-4147



SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

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

**INQUIRY CONCERNING HON. GENE C. GALASSINI**  
Otero County Magistrate Court

Inquiry No. 2015-074

**FILED**  
FEB 02 2016 *GF*  
**NM JUDICIAL  
STANDARDS COMMISSION**

**VERIFIED RESPONSE TO NOTICE OF FORMAL PROCEEDINGS**

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Gene C. Galassini, Judge of the Otero County Magistrate Court, by and through his attorneys  
DIXON-SCHOLL-CARRILLO-P.A, respectfully submits his Verified Response to Notice of Formal  
Proceedings under Rule 16 of the Judicial Standards Commission Rules NMRA (2015):

In response to each of the Counts 1 through 8, I do not have specific recollection of many of  
the details of the various cases and transactions referred to in those Counts. My response here, and  
to the Preliminary Investigation, is based on memory, and largely without the benefit of discovery  
or investigation into the actual facts and circumstances involved, and without having had the ability  
to interview witnesses or review all of the relevant documents. My responses are made to the best  
of my recollection, under the circumstances. I deny any facts contained or implied in any of the  
Counts 1-8 not specifically admitted in this Response.

I have always strived to perform the duties of my office impartially, competently and  
diligently. My intent and motivation in all I have done as a Magistrate Judge in Otero County have  
always been to serve the interests of the State, and its people with fairness, compassion and integrity.  
I have always tried by my actions to provide good service to the citizens and serve the goals of  
providing efficient, honest and impartial justice to all who have business before the Court. If I have  
failed in my efforts, that failure has not been due to any malice or improper motivation on my part.

*D*

## COUNT 1

In the matter of *State of New Mexico v. Emmett Rumsey*, M-38-MR-2014-193 and M-38-MR-2015-233, I may have used a pre-signed Plea and Disposition Agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office, although it is possible that Ms. Rojas, Assistant District Attorney for the 12<sup>th</sup> Judicial District Attorney's Office, may have been present in court at the time. For quite a long time, the District Attorney's Office left pre-signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Rumsey's. My recollection and understanding is that Mr. Rumsey and attorneys from the District Attorney's Office had previously negotiated a plea agreement and the plea agreement was left in the court's files. Thereafter, Mr. Rumsey appeared in court on April 16, 2015, during our walk-in session, after initially failing to appear when scheduled. I believe Mr. Rumsey provided proof of reinstatement of his New Mexico Driver's License. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District Attorney's Office was present, it is my understanding that it is the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV. I believe Mr. Rumsey would have had a valid license at the time and had cleared with DMV since the No Contest plea was accepted. Commonly, no representatives from the DA's Office attend walk-in sessions.

In the matter of *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, like the Rumsey case, I may have used a pre-signed Plea and Disposition agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office. For quite a long time, the District Attorney's Office left pre-

signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Nichol's. Again, I do not actually recall if the Assistant District Attorney was present at the time or not. It is likely Mr. Nichols appeared before the court at walk-ins and provided proof of his driver's license reinstatement. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District Attorney's Office was present, it is my understanding that it is the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV; and, in cases where the defendant pleads guilty or no contest to traffic charges. I believe Mr. Nichols would have had a valid license at the time and had cleared with DMV since the No Contest plea was accepted. Mr. Nichols pled No Contest to the speeding charge and was found guilty of it, and of the No Driver's License charge. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense of speeding on defendant's No Contest plea. Commonly, no representatives from the DA's Office attend walk-in sessions.

#### COUNT 2

In the matter of *State of New Mexico v. Emmett Rumsey*, M-38-MR-2014-193 and M-38-MR-2015-233, I may have used a pre-signed Plea and Disposition agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office, although it is possible that Ms. Rojas, Assistant District Attorney for the 12<sup>th</sup> Judicial District Attorney's Office, may have been present in court at the time. For quite a long time, the District Attorney's Office left pre-signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Rumsey's. My recollection is that Mr.

Rumsey and attorneys from the District Attorney's Office had previously negotiated a plea agreement and the plea agreement was left in the court's files. Thereafter, Mr. Rumsey appeared in court on April 16, 2015, during our walk-in session, after initially failing to appear when scheduled. I believe Mr. Rumsey provided proof of reinstatement of his New Mexico Driver's License. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District Attorney's Office was present, it is my understanding is that it was the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV. I believe Mr. Rumsey would have had a valid license at the time and had cleared with DMV since the No Contest plea was accepted. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense of speeding on defendant's No Contest plea. Commonly, no representatives from the DA's Office attend walk-in sessions.

In the matter of *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, like the Rumsey case, I may have used a pre-signed Plea and Disposition agreement provided by the 12th Judicial District Attorney's Office. Again, I do not actually recall if the Assistant District Attorney was present at the time or not. For quite a long time, the District Attorney's Office left pre-signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Nichol's. It is likely Mr. Nichols appeared before the court at walk-ins and provided proof of his driver's license reinstatement. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District Attorney's Office was present, it is my understanding that it was the



policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV; and, to plead No Contest or Guilty to a charge of speeding without an assistant district attorney being present. I believe Mr. Nichols would have had a valid license at the time and had cleared with DMV since the No Contest plea was accepted. Mr. Nichols pled No Contest to both charges and was found guilty. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense of speeding on defendant's No Contest plea. Commonly, no representatives from the DA's Office attend walk-in sessions.

### COUNT 3

In the matter of *State of New Mexico v. Emmett Rumsey*, M-38-MR-2014-193 and M-38-MR-2015-233, I may have used a pre-signed Plea and Disposition agreement provided by the 12<sup>th</sup> Judicial District Attorney's Office, although it is possible that Ms. Rojas, Assistant District Attorney for the 12<sup>th</sup> Judicial District Attorney's Office, may have been present in court at the time. My recollection is that Mr. Rumsey and attorneys from the District Attorney's Office had previously negotiated a plea agreement and the plea agreement was left in the court's files. For quite a long time, the District Attorney's Office left pre-signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Rumsey's. Thereafter, Mr. Rumsey appeared in court on April 16, 2015, during our walk-in session, after initially failing to appear when scheduled. I believe Mr. Rumsey provided proof of reinstatement of his New Mexico Driver's License. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District

Attorney's Office was present, it is my understanding that it was the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV. I believe Mr. Rumsey would have had a valid license at the time and had cleared with DMV since the No Contest plea was accepted. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense of speeding on defendant's No Contest plea. Commonly, no representatives from the DA's Office attend walk-in sessions.

In the matter of *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, like the Rumsey case, I may have used a pre-signed Plea and Disposition agreement provided by the 12th Judicial District Attorney's Office. Again, I do not actually recall if the Assistant District Attorney was present at the time or not. For quite a long time, the District Attorney's Office left pre-signed Plea and Disposition Agreements in a box specifically intended for that purpose for use in cases like Mr. Nichol's. It is likely Mr. Nichols appeared before the court at walk-ins and provided proof of his driver's license reinstatement. Assuming, without specifically recalling, that no representative of the 12<sup>th</sup> Judicial District Attorney's Office was present, it is my understanding that it was the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to make reduced pleas to Driver Must be Licensed in Driving While License Suspended cases when the defendant provides a valid license and clearance from DMV; and, not to appear in other traffic cases, especially were the defendant plead guilty or no contest. I believe Mr. Nichols would have had a valid license at the time and had cleared with DMV since the No Contest plea was

accepted. Mr. Nichols pled No Contest to both charges and was found guilty. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense of speeding on defendant's No Contest plea. Commonly, no representatives from the DA's Office attend walk-in sessions.

#### COUNT 4

In the Matter of *State of New Mexico v. John Brown*, M-38-TR-2014-3035, it is my recollection, and I believe that Mr. Brown appeared in person and pled No Contest to the charge of No Registration. It is my understanding that it was the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to plead guilty or no contest without being present. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense. I do not know if Mr. Brown's signature is missing from a sign in sheet, and state affirmatively that maintenance of the sign in sheet is not the Judge's responsibility, and I do not routinely check it, or otherwise confirm if parties appearing in court have signed it. The lack of Mr. Brown's signature on a sign in sheet does not necessarily lead me to the conclusion that he was not present, but only that he did not sign that sheet, if indeed his signature is missing. Given that his signature does appear on his plea of No Contest, it appears that Mr. Brown was present in court. I did not sign Mr. Brown's name on the Judgment and Sentence form. I did not cause someone other than Mr. Brown to sign the Judgment and Sentence form. On information and belief, Mr. Brown, when asked, will confirm that it is his signature on the Judgment and Sentence form, and that he placed it there while in Court.

## COUNT 5

In the matter of *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833; I do not recall conducting an *ex parte* hearing involving Maria Garcia-Olayo in regards to Ms. Prudencio's citation. When the issue was first raised in the Preliminary Investigation, my memory was that I had spoken with Ms. Prudencio by telephone. If I did not, then I am not sure what happened specifically. My memory is that I became aware that Ms. Prudencio was ill, and unable to come to court. I recall that Ms. Prudencio had appeared earlier, but that the Clerk's office was unable to locate Ms. Prudencio's citation or a court file, and sent her away without resolving her citation. Somehow I would have been aware she wanted to plead No Contest, and that plea was entered and she was found guilty. Deferral of the sentence in a case involving a speeding charge such as Ms. Prudencio's is not unusual, and my decision to do so was my own.

## COUNT 6

In response to the allegation that I misrepresented my actions in my response to the Notice of Preliminary Investigation regarding *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833; I did not intentionally misrepresent my actions. My response was made to the best of my memory about what had happened in that case. At the time I responded to the Notice of Preliminary Investigation, I was only allowed to rely on my memory about that case, and had been admonished not to contact individuals who might have information which would have helped recall the circumstances or situations in more detail. My recollection was that Ms. Prudencio advised the court she wanted to plead No Contest to the charge of speeding. I recall that I allowed Ms. Prudencio to enter that plea, I thought by phone, in order to accommodate Ms. Prudencio's personal

needs. My recollection is that Ms. Prudencio was ill, unable to make it to court and was in fear of having a warrant issued. I do not recall the specific circumstances of Ms. Prudencio, but I expect she was unable to enter an appearance by mail, email or telefax, as permitted by Rule 6-503, or by submitting Form 9-104(A) for appearance by telephone under Rule 6-110(A). I recall that Ms. Prudencio had appeared earlier at the court to handle the matter, but that the Clerk's office was unable to locate her citation or a court file, so sent her away without resolution. It is my understanding that it was the policy of the 12<sup>th</sup> Judicial District Attorney's Office to not appear in such cases, and to allow defendants to plead guilty or no contest without being present. I believe Rule 6-503 allows the court to dispose of a matter without a hearing for the charged offense in Ms. Prudencio's case when the defendant pleads guilty or no contest. I do not recall conducting an *ex parte* hearing involving Maria Garcia-Olayo in regards to Ms. Prudencio's citation. I do not recall if Ms. Garcia-Olayo was present in court when the matter was handled, but she may have been as Ms. Garcia-Olayo is regularly in the Magistrate Court performing her job duties. As noted previously, my memory is I spoke to Ms. Prudencio by telephone, but if I did not, I am not certain how the matter was ultimately handled. Deferral of the sentence in a case such as Ms. Prudencio's is not unusual, and my decision to do so was my own.

#### COUNT 7

In the matter of *State of New Mexico v. Nick Chacon* M-38-TR-2004-1344, my recollection is that on May 21, 2015, Mr. Chacon was present at a reimposition of sentence. I understand he returned May 28, 2015, and paid his fine and fees. I recall walking past Ms. Johnson's work area and Mr. Chacon standing at the window. I don't remember vouching for the "validity" of his payment.

I recall acknowledging he was Nick Chacon as he and one of the clerk's discussed his fine. I was also unaware that a policy existed to require ID when tendering a check and note the court accepts hundreds of checks per month via mail and also has an after hours drop- box for payments without ID. Mr. Chacon could have simply walked from the front clerks' area to the back door and dropped it in the after hours drop slot or simply mailed it. I understand if asked about this situation, Mr. Chacon will say that the clerk could not find his paperwork and that the clerk asked me what the fine was, to which I responded, "\$65.00." I also understand that Mr. Chacon will state that the clerk did not ask him for an ID.

#### COUNT 8

As to Count 8 of the Notice of Formal Proceedings alleging *inter alia* that I failed to be patient, dignified and courteous to court staff, I am unable to respond to those allegations because they are not specific as to any time, persons or circumstances in which such conduct is alleged to have occurred. I affirmatively state that I strive to be patient, dignified and courteous to citizens, defendants, staff and attorneys at all times. Without knowing more about any specific allegations, I cannot respond without guessing about the circumstances and what my conduct, or the conduct of others might have been. If and when specifics of these allegations are provided to me, then I can respond to those specific issues with my recollection of the events, rather than supposition or guesses. Based on the vague and general nature of the allegations made in Count 8, I can only deny them.

Respectfully submitted,



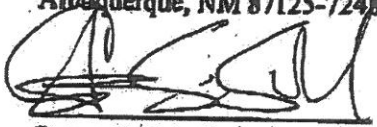
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Gene C. Galassini  
Magistrate Judge, Otero County

Steven S. Scholl  
DIXON-SCHOLL-CARRILLO-P.A  
Attorneys for Hon. Gene C. Galassini  
P.O. Box 94147  
Albuquerque, New Mexico 87199-4147  
Phone: (505) 244-3890  
Fax: (505) 244-3889  
Email: [sscholl@dsblaw.com](mailto:sscholl@dsblaw.com)

I hereby certify that a copy of the foregoing  
pleading was sent by telefax this 2<sup>nd</sup> day  
of February, 2016 to:

Joyce E. Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248



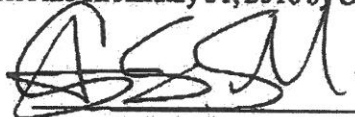
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Steven S. Scholl

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF BERNALILLO )

VERIFICATION

The foregoing was sworn to or affirmed before me on January 31, 2016 by Gene C. Galassini.



Steven S. Scholl  
Notary Public

( S E A L )

My commission expires:

January 29, 2017



**DIXON • SCHOLL • CARRILLO • P.A.**  
**A PROFESSIONAL ASSOCIATION OF LAWYERS AND COUNSELORS**

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**FAX COVER SHEET**

TO: Phyllis Dominquez - Judicial Standards Commission

FAX NO: 222-9358

FROM: Steven S. Scholl

RE: *Galassini*

DATE: February 2, 2016

OPERATOR: Brenda L. Gonzales *BLG*

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: 13

**RECEIVED**  
FEB 02 2016  
NM JUDICIAL  
STANDARDS COMMISSION *GB*

[If you do not receive the total number of pages as indicated above, please notify this office to have this fax retransmitted.]

**COMMENTS**

**Attached please find a Verified Response to Notice of Formal Proceedings for your information and records. If you have any questions, please do not hesitate to contact this office.**

**CONFIDENTIAL**

The information contained in this facsimile message is confidential and intended solely for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or unauthorized use of this communication is strictly prohibited. If you have received this facsimile in error, please notify the sender immediately by telephone, and return the facsimile to the sender at the above address via the United States Postal Service. Thank You.

File # 120-0275

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

**FILED**

FEB 03 2015

NM JUDICIAL  
STANDARDS COMMISSION



INQUIRY CONCERNING HON. GENE C. GALASSINI  
Otero County Magistrate Court

Inquiry No. 2015-074

AMENDED NOTICE OF FORMAL PROCEEDINGS

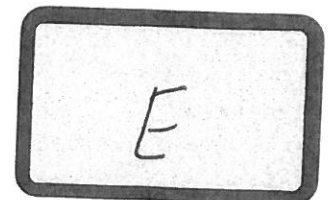
TO: Hon. Gene C. Galassini  
c/o Steven S. Scholl, Esq.  
Dixon, Scholl, & Bailey, P.A.  
P.O. Box 94147  
Albuquerque, New Mexico 87199-4147

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

COUNT 1

In the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337; and, *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, you accepted plea agreements and sentenced the defendants to a lesser-included offense of Driver Must Be Licensed and dismissed charges of Driving While License Suspended (not for DWI) without the State being present. You used Plea and Disposition agreement forms that were previously signed by Assistant District Attorney Erika Rojas, falsely attesting to Ms. Rojas' presence at the plea hearings.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A), and 21-206(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.



COUNT 2

You materially participated in plea agreement proceedings in the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337; and, *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233, and accepted the defendants' pleas without the State being present, contrary to Rule 6-502(D) NMRA.

Such conduct violates Rules 21-101, 21-102, 21-202, and 21-205(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 3

You conducted *ex parte* hearings on charges of Driving on a Suspended License (not for DWI) by failing to require the State's presence in the matters of *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2014-00193; *State of New Mexico v. Felton Nichols*, M-38-MR-2015-00337, and *State of New Mexico v. Emmitt Rumsey*, M-38-MR-2015-00233.

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

COUNT 4

On or about October 30, 2014, you adjudicated the case of *State of New Mexico v. John Brown*, M-38-TR-2014-03053, without the State's presence and without requiring the defendant's presence, as noted by the lack of the defendant's signature on the Magistrate Court's sign-in sheet and by the lack of the defendant's signature on the Judgment and Sentence form. It appears that you signed, or caused to be signed by someone other than the defendant, the defendant's name on the Judgment and Sentence form falsely attesting to the defendant's presence.

Such conduct violates Rules 21-101, 21-102, 21-202, 21-205(A) and 21-206(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 5

On or about October 22, 2014, in *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833, you deferred the defendant's sentence at her sister (Otero County Misdemeanor DWI Compliance Officer), Maria Garcia-Olayo's request and conducted an *ex parte* hearing.

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

COUNT 6

You misrepresented your actions in your response to the *Notice of Preliminary Investigation* regarding *State of New Mexico v. Corinne Prudencio*, M-38-TR-2014-2833, by stating that you held a telephonic hearing with Ms. Prudencio when in fact you conducted an *ex parte* hearing with Ms. Prudencio's sister, Maria Garcia-Olayo.

Such conduct Violates Rules 21-101, 21-102 and 21-216(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 7

On or about May 28, 2015, you personally vouched for the identity of the defendant in *State of New Mexico v. Nick Chacon*, M-38-TR-2004-1344, when the defendant did not have proof of identification to present to a court clerk.

Such conduct violates Rules 21-101, 21-102, and 21-202 NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 8

You failed to be patient, dignified and courteous to court staff when you:

- (1) Admonished and embarrassed a court clerk in open court for typing an appeal

amount on a Judgment and Sentence form that was in accordance with the judgment, but was different from what you ordered;

(2) Embarrassed a court clerk in open court when the clerk questioned you because the clerk could not read your writing;

(3) Embarrassed and was rude to a court clerk where members of the public were present telling the clerk that the clerk had incorrectly completed a form. When the clerk told you that she was doing what she was trained to do you replied, "This is my court and this is how I want it done;" and,

(4) Admonished a court clerk for not processing court files correctly and when the clerk told you that she was processing files according to the her training, and if you disagreed with the process that you should speak to her supervisor, you told the clerk words to the effect that you were the judge and did not have to discuss anything with a supervisor.

Such conduct violates Rules 21-101, 21-102 and 21-208(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

#### COUNT 9

You breached confidentiality as mandated by Article 6, Section 32 of the New Mexico Constitution and Rule 8 of the Judicial Standards Commission Rules when you: (1) copied the *Notice of Preliminary Investigation* and gave it to a court clerk; (2) told a court clerk words to the effect of, "Someone turned me in," "I got tattled on," "This is how I got in trouble before"; discussed the investigation with attorneys and probation officers; told court staff that you know who turned you in to the Judicial Standards Commission; told a court clerk words to the effect of, "I'm sure you have already heard but I have been turned into the Judicial Standards"; read allegations from the

Notice of Preliminary Investigation to a court clerk and asked the clerk if the clerk thought you were impatient with court staff; spoke multiple times with a court clerk about the Judicial Standards Commission investigation; and told a court clerk words to the effect of, "Someone turned me in, I don't know who it was, but I have a pretty good idea."

Such conduct violates Rules 21-101, 21-102, 21-208(B), and 21-216 NMRA of the Code of Judicial Conduct 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:**

*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.

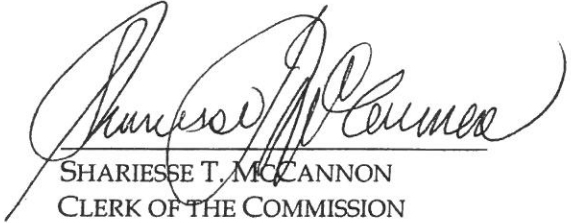
JUDICIAL STANDARDS COMMISSION

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 3<sup>rd</sup> day of February 2016 to the following:

Hon. Gene C. Galassini  
c/o Steven S. Scholl, Esq.  
Dixon, Scholl, & Bailey, P.A.  
P.O. Box 94147  
Albuquerque, New Mexico 87199-4147

  
SHARIESSA T. MCCANNON  
CLERK OF THE COMMISSION