


Joey D. Moya

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No.

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

S-1-SC-36763

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

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

PETITION TO ACCEPT STIPULATION AGREEMENT AND
CONSENT TO DISCIPLINE

JUDICIAL STANDARDS COMMISSION
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Counsel for Respondent

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. WARREN G. WALTON
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INQUIRIES CONCERNING HON. WARREN G. WALTON
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PETITION TO ACCEPT STIPULATION AGREEMENT AND
CONSENT TO DISCIPLINE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

before Respondent and that Defendant was represented by counsel;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



RANDALL D. ROYBAL
Executive Director & General Counsel

DEBORAH BORIO
Investigative Trial Counsel
Post Office Box 27248
Albuquerque, NM 87125-7248
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CERTIFICATE OF SERVICE

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




DEBORAH BORIO

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

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

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

FILED
NOV 21 2017
NM JUDICIAL
STANDARDS COMMISSION



STIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

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

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

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

Exhibit 1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESPONDENT'S REVIEW & APPROVAL

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

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

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

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



HON. WARREN G. WALTON
Respondent

Dated: 11-8-17

DEFENSE COUNSEL REVIEW

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



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

Dated: 11/8/17

EXAMINER'S REVIEW & APPROVAL

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

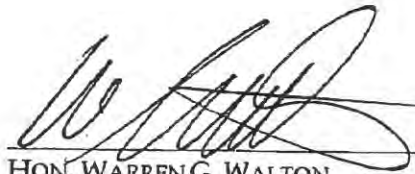
see next page /
DEBORAH BORIO, ESQ.
Investigative Trial Counsel

Dated: 11/21/17



JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

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



HON. WARREN G. WALTON
Respondent

Dated: 11-8-17

DEFENSE COUNSEL REVIEW

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



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

Dated: 11/8/17

EXAMINER'S REVIEW & APPROVAL

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



DEBORAH BORIO, ESQ.
Investigative Trial Counsel

Dated: 11/8/2017

JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

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

Joyce Bustos

JOYCE BUSTOS
Chair

Dated: 11/21/17

Randy Roybal

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

Dated: 11/21/17



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

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RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

DEBORAH BORIO
Investigative Trial Counsel

February 21, 2017

CONFIDENTIAL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 21 2017

NM JUDICIAL
STANDARDS COMMISSION

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

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

Dear Judge Walton:

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

It has been alleged that:

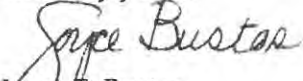
1. In or about May - July 2016, you issued Orders to Show Cause to Ray Floersheim and Sarah Montoya for the purpose of having the attorneys appear in court to discuss scheduling issues or for some other purpose for which a show cause order is inappropriate, and subsequently told the attorneys to disregard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

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

Exhibit A

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


Sincerely yours,


Joyce E. Bustos
Chair

CERTIFICATE OF MAILING

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

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


SHARIESSE T. McCANNON
CLERK OF THE COMMISSION



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

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

RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

DEBORAH BORIO
Investigative Trial Counsel

February 9, 2017

CONFIDENTIAL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

FEB 11 2017

NM JUDICIAL
STANDARDS COMMISSION

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

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

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

Dear Judge Walton:

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

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

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

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

Exhibit B

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

Sincerely yours,



Joyce E. Bustos
Chair

CERTIFICATE OF MAILING

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

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



SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

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

RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

DEBORAH BORIO
Investigative Trial Counsel

April 12, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CONFIDENTIAL

FILED

APR 13 2017

NM JUDICIAL
STANDARDS COMMISSION

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

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

Dear Judge Walton:

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

It has been alleged that:

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

Exhibit C

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

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

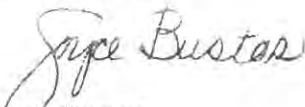
4. On or about October 14, 2016, you called Sharon Malcom—mother of the Defendant in *State v. Michael Malcom*, M9-MR-2015-00081—and informed her that you were going to be filing a case with a State agency because nothing in her son's case had been handled correctly. Further, it is alleged that you informed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

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

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

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

Sincerely yours,



Joyce E. Bustos
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 15th day of April 2017, by certified mail, return receipt requested to:

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


SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. WARREN G WALTON
Colfax County Magistrate Court

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

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

NOTICE OF FORMAL PROCEEDINGS

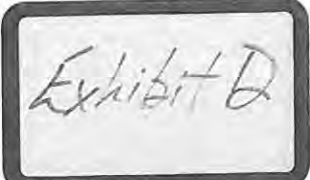
Hon. Warren G. Walton
c/o Steven L. McConnell
Kamm & McConnell, LLC
P.O. Box 1148
Raton NM 87740-1148

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

COUNT I

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

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



COUNT II

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

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

COUNT III

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

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

COUNT IV

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

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

COUNT V

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

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

COUNT VI

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

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

COUNT VII

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

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

COUNT VIII

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

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

COUNT IX

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

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

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

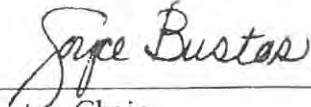
Judicial Standards Commission
P.O. Box 27248
Albuquerque, New Mexico 87125-7248

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

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

JUDICIAL STANDARDS COMMISSION


By: _____


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

CERTIFICATE OF SERVICE

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

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


SHARIESSE T. MCCANNON
Clerk of the Commission



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

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

RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

DEBORAH BORIO
Investigative Trial Counsel

October 17, 2017

CONFIDENTIAL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

OCT 18 2017

NM JUDICIAL
STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "R. Roybal", written over the "FILED" and "OCT 18 2017" stamps.

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

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

Dear Judge Walton:

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

It has been alleged that:

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

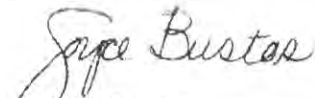
Exhibit E

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

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

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

Sincerely yours,

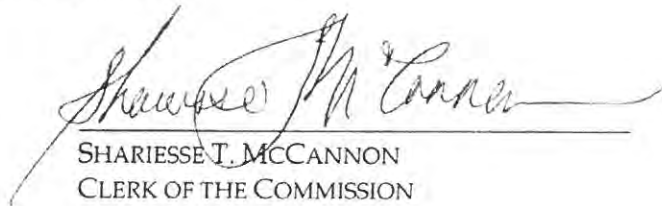


Joyce E. Bustos
Chair

CERTIFICATE OF MAILING

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

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


SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION