

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No. 34,601

IN THE MATTER OF HON. SHARON C. TORRES  
Bernalillo Municipal Court

INQUIRY CONCERNING HON. SHARON C. TORRES  
Inquiry No. 2013-077

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

MOTION TO ACCEPT STIPULATION AGREEMENT AND CONSENT  
TO DISCIPLINE

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*Respondent*

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

requests the Court unseal the file in this matter, pursuant to Rule 27-104(B) NMRA 2011.

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

2. On March 20, 2014, the Commission issued a *Notice of Preliminary Investigation* to Respondent in Inquiry Number 2013-077.

3. On April 10, 2014, Respondent filed her response to the *Notice of Preliminary Investigation*.

4. On March 21, 2014, the Commission filed its *Verified Petition for Immediate Temporary Suspension Without Pay ("Petition")* with the Supreme Court.

5. On March 28, 2014, the Supreme Court ordered Respondent to file a response to the Commission's *Petition*.

6. On April 11, 2014, the Supreme Court issued its *Order* setting oral argument for May 14, 2014.

7. On April 14, 2014, Respondent filed her *Response to Petitioner for Immediate Temporary Suspension Without Pay* with the Supreme Court.

8. Following oral argument on the matter, on May 19, 2014, the Supreme Court issued its *Order* denying the Commission's *Petition*, directing the Commission to move forward in its proceedings to resolve the matter, and appointing Hon. John Davis, Thirteenth Judicial District Court, to serve as mentor to Respondent during the pendency of the proceedings.

9. On July 9, 2014, the Commission issued a *Notice of Formal Proceedings* in 2013-077. (See Exhibit A to Exhibit 1.)

10. On July 30, 2014, Respondent filed her *Response From Respondent on Notice of Formal Proceedings*.

11. On December 16, 2014, in furtherance of resolving the formal proceedings before the Commission, Commission Examiners met with Hon. John Davis as a witness in the matter and ultimately requested a written assessment of Respondent's progress.

12. On February 13, 2015, Hon. John Davis provided the requested report on Respondent's progress. (See Exhibit B to Exhibit 1.)

13. On March 3, 2015, the Commission entered into a *Stipulation Agreement and Consent to Discipline* ("*Stipulation*") with Respondent, which provides in pertinent part the following:

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

(1) **Formal mentorship with supervised probation for the remainder of Respondent's term of office.** 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 term, which concludes in March 2016. 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) **Training.** Respondent shall review the 40-hour videotaped New Municipal Judges Orientation program provided by the Judicial Education Center and promptly submit written certification to the Supreme Court and the Commission upon completion. Respondent shall complete this review within six (6)

weeks of the date the Supreme Court issues its Order granting the Commission's *Motion to Accept Stipulation Agreement and Consent to Discipline*.

B. Respondent also agrees to imposition of the following discipline by the Supreme Court, and that she will promptly:

(1) Coordinate with the Town of Bernalillo Finance Department/Town Treasurer to obtain hands-on training for the court clerks, as soon as practicable, to include:

(a) Remedial training from Incode on correct use of financial modules and programs; and,

(b) Remedial finance training, to include statutory requirements and the municipality's mandatory processes and procedures.

(2) Work with her assigned mentor/probation supervisor to obtain, and ensure successful completion of, remedial training for her clerks on their duties and responsibilities, to include statutory requirements and prohibited actions.

(3) Work with her assigned mentor/probation supervisor to develop and implement written procedures/checklists/policies to address, as a minimum: file management, financial processes, and the clerks' duties and responsibilities, to include statutory requirements.

C. Respondent admits to the following acts, but denies that she engaged in willful misconduct:

(1) On or between about March 10, 2008 and March 5, 2014, Respondent failed to prepare and provide monthly itemized statements of the different amounts of money collected, the purpose of the collection, the name of each person paying, and the day of each payment, as required by NMSA 1978, Sections 35-14-7 and 35-14-8;

(2) On or about June 2, 2011, October 16, 2013, January 21, 2014, and January 28, 2014, Respondent improperly directed her clerk to refund bond money from a miscellaneous account rather than from the bond monies account, which Respondent knew from her training was required to be maintained as a separate account;

(3) On or between about March 10, 2008 and May 14, 2014, Respondent failed to reconcile bond monies as required by NMSA 1978, Sections 31-3-2 and 31-3-4;

(4) On or about April 22, 2013, Respondent denied due process to Avery K. Cate, who had been arrested on a bench warrant for Contempt/Failure to Appear or Failure to Pay Fines, when Respondent failed to arraign him on the bench warrant charge(s) and, instead, released him with Credit for Time Served and closed the matter, which resulted in a conviction for the bench warrant charge(s), as well as closed the underlying case, *Town of Bernalillo v. Avery K. Cate*, Cause No. 2012-1875, which resulted in a conviction in that case without a hearing on the merits;

(5) On or about April 22, 2013, Respondent permitted false reports to be made to the Town Finance Department/Town Treasurer in the case of *Town of Bernalillo v. Avery K. Cate*, Cause No. 2012-1875, by



reporting that the assessed fines were collected when, in fact, the fines were discharged without payment;

(6) On or about May 2, 2013, Respondent denied due process to Vanessa R. Perea, who had been arrested on a bench warrant for Contempt/Failure to Appear, when Respondent failed to arraign her on the bench warrant charge and, instead, released her with Credit for Time Served and closed the matter, resulting in a conviction on the bench warrant charge, as well as closed the underlying case, *Town of Bernalillo v. Vanessa R. Perea*, Cause No. 2013-00314, resulting in a conviction in that case without a hearing on the merits, even though Ms. Perea had previously pled "Not Guilty;"

(7) On or about April 22, 2013, Respondent permitted false reports to be made to the Town Finance Department/Town Treasurer in the case of *Town of Bernalillo v. Vanessa R. Perea*, Cause No. 2013-00314, by

reporting that the assessed fine was collected when, in fact, the fine was discharged without payment;

(8) On or about April 29, 2013, Respondent denied due process to Dennis Rodriguez, who had been arrested on a bench warrant for Contempt/Failure to Appear, when Respondent failed to arraign him on the bench warrant charge and, instead, released him with Credit for Time Served and closed the matter, which resulted in a conviction for the bench warrant charge, as well as closed the underlying case, *Town of Bernalillo v. Dennis Rodriguez*, Cause No. 2012-02359, resulting in a conviction in that case without a hearing on the merits;

(9) On or about April 22, 2013, Respondent permitted false reports to be made to the Town Finance Department/Town Treasurer in the case of *Town of Bernalillo v. Dennis Rodriguez*, Cause No. 2012-02359, by

reporting that the assessed fine was collected when, in fact, the fine was discharged without payment;

(10) On or between about March 14, 2013 and March 18, 2013, Respondent denied due process to Robert Wilson, who had been arrested on a bench warrant for Contempt/Failure to Appear, when Respondent failed to arraign him on the bench warrant charge and, instead, released him with Credit for Time Served, which resulted in a conviction for the bench warrant charge, as well as closed the underlying case, *Town of Bernalillo v. Robert Wilson*, Cause No. 2013-00008, resulting in a conviction in that case without a hearing on the merits;

(11) On or about March 18, 2013, Respondent permitted false reports to be made to the Town Finance Department/Town Treasurer in the case of *Town of Bernalillo v. Robert Wilson*, Cause No. 2013-00008, by

reporting that the assessed fine was collected when, in fact, the fine was discharged without payment;

(12) In or between about April 2010 and August 2013, Respondent failed to submit numerous Abstracts of Record to New Mexico Motor Vehicle Division (MVD) as required by 1978, Sections 66-8-130(C) and 66-8-135(C);

(13) On or about July 21, 2007, November 15, 2008, December 4, 2008, and October 8, 2009, Respondent failed to recuse from cases involving Respondent's nephew, Lawrence Dominguez;

(14) On or about April 18, 2013, Respondent presided over five (5) of James (Jamie) Sandoval's cases – specifically, *Town of Bernalillo v. James Sandoval*, Cause Nos. 2013-00053, 2013-00054, 2012-2420, 2012-2492, and 2012-2422 – after Respondent had recused from Mr. Sandoval's cases;

(15) On or about April 19, 2013, Respondent permitted false reports to be made to the Town Finance Department/Town Treasurer in the cases of *Town of Bernalillo v. James Sandoval*, Cause Nos. 2013-00053, 2013-00054, 2012-2420, 2012-2492, and 2012-2422, by reporting that fines were collected when, in fact, the fines were discharged without payment;

(16) On or between about April 12 and April 18, 2013, Respondent intervened in the cases of *Town of Bernalillo v. James Sandoval*, 2013-00053, 2013-00054, 2012-2420, 2012-2492, and 2012-2422, which were assigned to the Alternate Judge;

(17) On or between about February 2, 2012 and January 31, 2013, Respondent failed to ensure her clerk properly cleared bench warrants, which resulted in the re-arrest of two individuals more than nine (9) months

after they had initially been arrested on their respective bench warrants;

(18) On or about June 17, 2010, Respondent engaged in impermissible *ex parte* communications in the case of Defendant David Taraddei, by speaking with the Defendant's employer and granting a continuance without notifying or obtaining the position of the opposing party;

(19) On or about July 27, 2012, Respondent had *ex parte* contact with a Defendant and discussed substantive details of his case, which was pending before Respondent and, further, Respondent permitted Defendant's vehicle documentation to be faxed to the court instead of having the Defendant appear in court, as required by the New Mexico Motor Vehicle Code;

(20) In or between about March 2008 and May 2014, Respondent failed to exercise her judicial

responsibilities by failing to supervise her clerk and require her to properly and accurately administer her workload, despite being informed by numerous individuals that Respondent's clerk was not performing her duties and was incompetent and/or inadequately trained. By example, Respondent's clerk did not properly administer her workload as evidenced by her failure to: properly process financial transactions, turn in and properly account for cash received, process bond monies properly, reconcile bond monies, maintain orderly case files, keep track of case files and pleadings, and document hearings and transactions; and,

(21) On or between about May 10, 2013 and August 26, 2013, Respondent took action in the case of *Town of Bernalillo v. Grace Romero*, 2013-00690, a case from which Respondent was excused and which was assigned to the Alternate Judge. Specifically, Respondent granted

a continuance, quashed a bench warrant issued by the Alternate Judge, issued a subsequent bench warrant, and set the fine and payment deadline.

D. Respondent does not contest that the Commission has sufficient facts and evidence to prove the following conduct, but Respondent denies that she engaged in willful misconduct:

(1) In or between about November 2008 and March 2010, Respondent failed to properly collect, account for, and/or accurately report the Judicial Education fees as required by NMSA 1978, Sections 35-14-7, 35-14-8, and 35-14-11;

(2) In or between about January 2009 and February 2012, Respondent failed to properly collect, account for, and/or accurately report the Court Automation fees as required by NMSA 1978, Sections 35-14-7, 35-14-8, and 35-14-11;



(3) In or about June 2013, Respondent permitted her clerk to create a new account for bonds restitution transactions without informing or obtaining permission from the Town Finance Department/Town Treasurer so that he could have oversight of the municipality's accounts and funds;

(4) On or between about March 10, 2008 and March 5, 2014, Respondent permitted her clerk to refund bond money to defendants, rather than to the individuals who paid the bonds as required by the Rules of Procedure for the Municipal Courts, Rule 8-401(G) NMRA 2007, and took no action to correct this situation when notified of the issue by the Town Treasurer and after personally receiving complaints from citizens;

(5) In or between about December 2012 and May 2013, Respondent attempted to improperly use

unreconciled bond monies to remodel the clerks' areas of the Bernalillo Municipal Court;

(6) On or between about September 1, 2009 and September 12, 2013, Respondent failed to collect \$295,510.95 in assessed fines and fees;

(7) In or about March 2011, Respondent told Bernalillo Police Department officers that she had a policy of giving first-time offenders a "free pass," or used words to the effect that individuals will be given a deferred sentence if it is their first offense, which is an impermissible, pre-determined adjudication/sentencing policy;

(8) On or between about April 11, 2013 and April 18, 2013, Respondent denied due process to James (Jamie) Sandoval by leaving him in jail without setting conditions of release as required by Rule 8-401 NMRA 2008;

(9) On or between about February 15, 2008 and May 2, 2008, while Respondent were presiding over cases as the appointed Alternate Judge, and subsequently as the elected Judge, Respondent failed to impose the mandatory minimum sentence for driving on a suspended license as required by NMSA 1978, Section 66-5-39, and New Mexico Uniform Traffic Ordinance 12-6-12.6(A)(6), in two separate cases of *Town of Bernalillo v. Bianca Chavira*, Cause Nos. 2008-527 and 2008-614;

(10) In or between about March 2008 and December 2012, Respondent created the appearance of impropriety and compromised the independence, integrity, and impartiality of a judge by hugging defendants and inquiring about their families as Respondent was proceeding to the bench to conduct court;

(11) On or about April 25, 2012, after Respondent was informed by her clerk that Respondent's neighbor

received a citation in another court and wanted to speak to Respondent about how to change her penalty assessment to a court appearance, Respondent created the appearance of impropriety by informing her clerk that Respondent would call the individual and, further, Respondent failed to instruct her clerks to inform citizens that it is impermissible for Respondent to discuss or confer with them about their pending or impending cases;

(12) On or about October 22, 2012, after Respondent was informed by her clerk that a citizen got into an altercation at work and wanted Respondent's advice on what to do, Respondent created the appearance of impropriety by informing her clerk that she would call the individual even after Respondent learned that the clerks had advised her to file a police report and, further, Respondent failed to instruct her clerks to inform citizens

that it is impermissible for Respondent to discuss or confer with them about their pending or impending cases;

(13) On or between about March 10, 2008 and October 16, 2012, Respondent failed to exercise her judicial responsibilities by allowing her clerk to exercise authority she does not possess when she dismissed citations after accepting fax and email documentation for offenses that, by statute, require mandatory court appearances;

(14) On or between March 26, 2013 and May 9, 2013, Respondent took action in the case of *Town of Bernalillo v. Michelle Fraire*, 2013-00673, a case from which Respondent was excused and which was assigned to the Alternate Judge, by granting a continuance in the case and by allowing a penalty assessment to be changed to a court appearance; and,

(15) On or between March 26, 2013 and May 9, 2013, Respondent permitted improper *ex parte*

communications with the defendant, in the case of *Town of Bernalillo v. Michelle Fraire*, 2013-00673, either directly or through her clerk when Respondent changed a penalty assessment citation to a court appearance.

E. Respondent admits that her conduct violated the following Rules of the Code of Judicial Conduct: 21-100, 21-200(A)&(B), and 21-400(A)(1) NMRA 1995; 21-300(A), (B)(1)-(2), (B)(8), and (C)(1)-(2) NMRA 2004; 21-300(A), (B)(1)-(2), (B)(7)(a)(ii), (B)(8) and (C)(1)-(2) NMRA 2009; 21-400(A)(1) & (A)(5) NMRA 2004; 21-101, 21-102, 21-103, 21-201(A), 21-202, 21-204(B), 21-205(A), 21-206(A), 21-207, 21-209(A)-(D), 21-211(A), and 21-212(A) NMRA 2012.

F. As set forth in the *Stipulation*, Respondent acknowledges that her conduct concerning the enumerated facts to which Respondent admits and those Respondent does not contest provides sufficient basis for the New Mexico Supreme Court to impose discipline against Respondent pursuant to Article VI, Section 32 of the New Mexico Constitution.

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

H. 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 *Motion*, approving the *Stipulation Agreement and Consent to Discipline*, and unsealing the documents filed in the Supreme Court in this case pursuant to Rule 27-104(B) NMRA 2011.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

A handwritten signature in black ink, appearing to read 'R. Roybal', is written over a horizontal line. The signature is stylized and somewhat cursive.

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

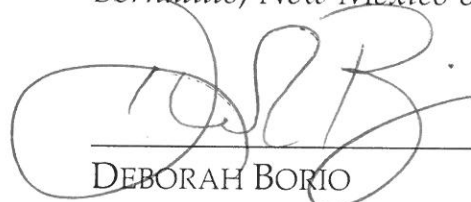
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by  
U.S. Post and email on this 3<sup>d</sup> day of March, 2015, to the Respondent:

*Hon. Sharon C. Torres  
Bernalillo Municipal Court  
P.O. Box 638  
Bernalillo, New Mexico 87004*

A handwritten signature in black ink, appearing to read 'DB', is written over a horizontal line. The signature is stylized and cursive.

DEBORAH BORIO  
INVESTIGATIVE TRIAL COUNSEL/EXAMINER