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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Filing Date: March 23, 2011

NO. 32,910

INQUIRY CONCERNING A JUDGE
NO. 2010-026

IN THE MATTER OF RACHEL WALKER,
Metropolitan Court Judge, Bernalillo County, New Mexico

RECEIVED
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NM JUDICIAL
STANDARDS COMMISSION

FORMAL REPRIMAND

Randall D. Roybal
Robin S. Hammer
Albuquerque, NM

SUPREME COURT OF NEW MEXICO
FILED
MAY - 9 2011
Kathleen G. Johnson

for Judicial Standards Commission

Kari T. Morrissey
Albuquerque, NM

for Respondent

PER CURIAM.

This matter came before this Court by petition for discipline upon stipulation filed by the Judicial Standards Commission (Commission) concerning the Honorable Rachel Walker (Respondent), formerly a Metropolitan Court Judge in Bernalillo County, New Mexico. We accepted the findings and conclusions of the

1 petition for discipline upon stipulation (petition) and ordered this formal reprimand
2 and other recommended sanctions set forth in the petition.

3 **FACTS**

4 Respondent was a Metropolitan Court Judge in Bernalillo County, New
5 Mexico, who lost her retention election in November 2010 and consequently left
6 judicial office on December 31, 2010. The Commission's jurisdiction had attached
7 pursuant to Judicial Standards Commission Rule 38 NMRA (2000).

8 The petition addresses two counts of misconduct that form the basis of the
9 Commission's recommendation for discipline, both of which involve issues
10 regarding Respondent's demeanor.

11 Respondent stipulated that on November 2, 2009, during a hearing in *State*
12 *v. George Padilla*, DW-2317-09, she failed to be patient, dignified, and courteous.
13 During the proceeding, Respondent held a defense attorney in direct contempt and
14 raised her voice several times. Respondent yelled, "Shut up! Shut up!" Respondent
15 called the defense attorney a liar and told the defendant that she questioned his
16 attorney's ability to represent him. Respondent referred to the defense attorney's
17 clients as "poor and unfortunate" to have him as their attorney. On that same date,
18 Respondent refused a request to recuse herself from hearing the defense attorney's
19 cases.

1 On November 2, 2009, during a contempt hearing against the defense
2 attorney, Respondent held the defense attorney's own counsel in direct contempt.
3 Respondent refused to be patient, dignified, and courteous in this proceeding.
4 Respondent raised her voice several times and challenged both attorneys several
5 times to "call the Judicial Standards Commission" and report her conduct to their
6 "buddies" at the Commission.

7 The parties stipulated that Respondent's conduct as set forth in these two
8 counts violated multiple provisions of the Code and constituted willful misconduct
9 in office. They also agreed that Respondent should receive a formal reprimand.

10 **DISCUSSION**

11 Respondent is subject to discipline pursuant to Article VI, Section 32 of the
12 New Mexico Constitution, which authorizes the discipline or removal of a judge for
13 a number of reasons, including willful misconduct in office. Before disciplining a
14 judge, the Court must be satisfied that willful judicial misconduct has occurred. *In*
15 *re Castellano*, 119 N.M. 140, 149, 889 P.2d 175, 184 (1995) (per curiam).
16 "[Willful] misconduct in office is improper and wrong conduct of a judge acting in
17 his official capacity done intentionally, knowingly, and, generally, in bad faith. It
18 is more than a mere error of judgment or an act of negligence." *In re Rodella*,
19 2008-NMSC-050, ¶ 9, 144 N.M. 617, 190 P.3d 338 (per curiam) (internal quotation

1 marks and citation omitted). A clear and convincing evidence standard applies. *See*
2 *In re Martinez*, 99 N.M. 198, 203, 656 P.2d 861, 866 (1982).

3 We agree with the Commission that Respondent's admitted conduct violated
4 multiple provisions of the Code of Judicial Conduct and constitutes willful
5 misconduct in office. In addition to the other disciplinary sanctions stipulated to by
6 the parties and approved by this Court, we now issue this formal reprimand.

7 **Improper Demeanor and Abuse of Contempt Power**

8 Respondent repeatedly displayed improper demeanor with counsel and the
9 defendant appearing before her in the courtroom. Particularly troubling was
10 Respondent's conduct in *Padilla*, DW-2317-09, and the contempt hearing against
11 defendant's counsel. Respondent failed to show the defendant, his attorney, and the
12 attorney who represented the first defense attorney during the direct contempt
13 proceeding, the patience and courtesy expected of a judge in the courtroom.
14 Respondent's conduct clearly violated Rule 21-300(A), (B)(2), (B)(3), (B)(4),
15 (B)(5), (B)(7), and (B)(8) NMRA, requiring a judge to "maintain order and decorum
16 in judicial proceedings" and "be patient, dignified and courteous to litigants, jurors,
17 witnesses, lawyers and others with whom the judge deals in the judge's official
18 capacity."

19 Most importantly, Respondent violated "the most basic tenet of judicial

1 conduct—that a judge shall uphold the integrity and independence of the judiciary.”
2 *In re Garza*, 2007-NMSC-028, ¶ 20, 141 N.M. 831, 161 P.3d 876 (per curiam).
3 Respondent’s conduct in failing to be patient, dignified, and courteous, and in
4 yelling at people in her courtroom, are actions that erode public confidence in the
5 judiciary. *See* Rule 21-100 NMRA (requiring a judge to establish, maintain, and
6 enforce high standards of conduct to uphold the integrity and independence of the
7 judiciary); Rule 21-200 NMRA (requiring a judge to “avoid impropriety and the
8 appearance of impropriety[,] . . . to respect and comply with the law . . . and act at
9 all times in a manner that promotes public confidence in the integrity and
10 impartiality of the judiciary”). “A judiciary of integrity is one in which judges are
11 known for their probity, fairness, honesty, uprightness and soundness of character.”
12 Rule 21-100 cmt. (West, Westlaw Aug. 31, 2004 amendments). As a judge,
13 Respondent has a duty to uphold the integrity of the judiciary by being patient and
14 respectful to those who come before her. *See* Rule 21-300(B)(4) cmt. (requiring a
15 judge to hear all proceedings fairly and with patience).

16 We have previously recognized that a judge is held to a higher standard than
17 the average citizen. *See Vincent*, 2007-NMSC-056, ¶ 21 143 N.M. 56, 172 P.3d 605
18 (“[Judges] hold a unique position in society, and with that position comes the
19 unique power and responsibility of administering justice. When a judge fails to

1 recognize and properly exercise that 'unique power and responsibility,' that judge
2 endangers our entire system of justice." (internal quotation marks and internal
3 citation omitted)). "A judge shall respect and comply with the law and shall act *at*
4 *all times* in a manner that promotes public confidence in the integrity and
5 impartiality of the judiciary." Rule 21-200(A) (emphasis added). Respondent
6 should have considered how the public, counsel, and court staff might perceive her
7 conduct on the bench and behaved appropriately. Respondent is hereby formally
8 reprimanded for her unacceptable conduct.

9 **CONDITIONS FOR RESPONDENT UPON A RETURN TO NEW MEXICO**
10 **JUDICIAL OFFICE**


11 If at any time in the future Respondent returns to New Mexico judicial office,
12 Respondent shall complete a twelve-month supervised probation and formal
13 mentorship. The Commission shall recommend the probation supervisor or mentor
14 for consideration and appointment by this Court. The probation supervisor or
15 mentor shall report on the progress and outcome of the mentorship to this Court and
16 to the Commission. Respondent shall also complete a course in ethics at the
17 National Judicial College. The Commission shall recommend an appropriate course
18 for consideration and approval by this Court. Respondent shall pay all costs, travel
19 expenses, and tuition associated with attending and completing this course at the

1 National Judicial College.

2 **IT IS SO ORDERED.**


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CHARLES W. DANIELS, Chief Justice

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PATRICIO M. SERNA, Justice


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PETRA JIMENEZ MAES, Justice

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RICHARD C. BOSSON, Justice

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EDWARD L. CHAVEZ, Justice