

FILED
12-10-10
2:39pm R

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

No. 32,501

IN THE MATTER OF HON. LUPE FUENTEZ,
Dexter Municipal Court Judge, Dexter, New Mexico

INQUIRY CONCERNING HON. LUPE FUENTEZ,
JSC Inquiry No. 2010-109

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

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

JUDICIAL STANDARDS COMMISSION
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Executive Director & General Counsel

Respondent

ROBIN S. HAMMER
Senior Investigative Trial Counsel

PATRICK C. McNERTNEY
Investigative Trial Counsel

Counsel for Petitioner

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Respondent

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

The Judicial Standards Commission of the State of New Mexico ("Petitioner" or "Commission"), through the undersigned counsel, hereby moves the Supreme Court for an order approving the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* in which Respondent, Hon. Lupe Fuentez, agreed to permanently resign and never to hold judicial office in New Mexico effective at 5:00 p.m. on the day following the Supreme Court's entry of an order accepting this stipulation. The Commission believes this stipulation agreement best serves the interests of justice and the integrity of the New Mexico Judiciary.

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

2. On July 16, 2010, the Commission filed with this Court a *Verified Petition for Immediate Temporary Suspension without Pay*.

3. This Court issued an order on August 5, 2010 granting the petition and immediately suspended Respondent without pay. Respondent has been on unpaid suspension since that date.

4. After completing its preliminary investigation, on August 25, 2010 the Commission issued a *Notice of Formal Proceedings* to Respondent.

5. As required by the practice of this Court, a copy of the *Notice of Formal Proceedings* is concurrently being filed under seal as **EXHIBIT 1** to this petition.

6. The Commission's inquiry and proceedings concerning Respondent in this matter have been ongoing.

7. The Commission and Respondent entered into a *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* on December 6, 2010 (attached hereto as **EXHIBIT 2**). As stated in the stipulation agreement, Respondent has chosen to voluntarily and permanently resign from judicial office effective at 5:00 p.m. on the day following the Supreme Court's entry of an order accepting this stipulation, rather than go forward with disciplinary hearing and related proceedings.

3. This Court issued an order on August 5, 2010 granting the petition and immediately suspended Respondent without pay. Respondent has been on unpaid suspension since that date.

4. After completing its preliminary investigation, on August 25, 2010 the Commission issued a *Notice of Formal Proceedings* to Respondent.

5. As required by the practice of this Court, a copy of the *Notice of Formal Proceedings* is concurrently being filed under seal as **EXHIBIT 1** to this petition.

6. The Commission's inquiry and proceedings concerning Respondent in this matter have been ongoing.

7. The Commission and Respondent entered into a *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* on December 6, 2010 (attached hereto as **EXHIBIT 2**). As stated in the stipulation agreement, Respondent has chosen to voluntarily and permanently resign from judicial office effective at 5:00 p.m. on the day following the Supreme Court's entry of an order accepting this stipulation, rather than go forward with disciplinary hearing and related proceedings.

8. *The Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* provides in pertinent part:

1. Respondent agrees to permanently resign as Judge of the Dexter Municipal Court. By 5:00 p.m. on the business day following the acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court and to the Mayor of Dexter. Respondent shall concurrently provide a copy of the resignation letter to the Commission. Upon resignation, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

2. The Commission will file with the New Mexico Supreme Court a *Motion to Accept Amended [sic] Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* attaching a copy of this Stipulation as an exhibit. The Commission will file the Motion under seal pursuant to Rule 27-104(B) NMRA 2010.

3. Upon granting the *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, the Supreme Court will unseal the entire Supreme Court file in this matter pursuant to Rule 27-104(B).

4. Upon execution of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and acceptance by the Supreme Court, the Commission will abate and close this matter (Inquiry No. 2010-109).

9. Upon Order from this Court, the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* is enforceable by the Commission before the Supreme Court.

10. It is in the best interests of justice and the integrity of the New Mexico Judiciary that the Supreme Court issue an order accepting Respondent Hon. Lupe Fuentez's permanent resignation from judicial office.

11. Pursuant to Rule 27-104(B) NMRA, this Court should unseal the file in this matter upon granting this petition, except for the *Notice of Formal Proceedings* which was filed as sealed EXHIBIT 1.

12. EXHIBIT 1 should remain sealed because the underlying *Notice of Formal Proceedings* is confidential and because the charges contained in the notice were never adjudicated before entry of the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's motion, enter an order approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, accepting Respondent Lupe Fuentez's permanent resignation from judicial office, and enter an order unsealing the Supreme Court's file in this case.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

By 

RANDALL D. ROYBAL

ROBIN S. HAMMER

PATRICK C. MCNERTNEY

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CERTIFICATE OF SERVICE

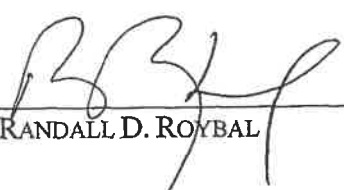
I HEREBY CERTIFY that a true copy of the foregoing was mailed and e-mailed
on this 10th day of December 2010, to the following:

HON. LUPE FUENTEZ

P.O. Box 511

Dexter, NM 88230

E-Mail: dolphin_luppy@yahoo.com


RANDALL D. ROYBAL