

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

2 **Opinion Number:** _____

3 **Filing Date:** _____

4 **NO. 32,854**

5 **INQUIRY CONCERNING A JUDGE**

6 **NO. 2011-022**

7 **IN THE MATTER OF ROBERT E. ROBLES**

8 **New Mexico Court of Appeals Judge**

9 **Albuquerque, New Mexico**

10 Randall D. Roybal

11 Robin S. Hammer

12 Albuquerque, NM

13 for Judicial Standards Commission

14 Sheehan & Sheehan, P.A.

15 Briggs F. Cheney

16 Albuquerque, NM

17 for Respondent

18 **FORMAL REPRIMAND**

19 **PER CURIAM.**

20 (1) This matter came before this Court by motion to accept a stipulation to
21 permanent retirement from judicial office effective June 1, 2011 and consent to

SUPREME COURT OF NEW MEXICO

FILED

MAY 31 2011

Katherine G. Johnson

1 discipline (consent to discipline) filed by the Judicial Standards Commission
2 (Commission) concerning the Honorable Robert E. Robles (Respondent), formerly
3 a Court of Appeals Judge in Albuquerque, New Mexico. We accepted the
4 Commission's stipulated facts, Respondent's permanent retirement as set forth in the
5 consent to discipline, and issue this formal reprimand.

6 (2) Judge Robles has entered into the consent to discipline with the Commission
7 resulting from his plea of guilty to driving under the influence of intoxicating liquor
8 or drugs, first offense. In the consent to discipline Respondent agrees to (1)
9 permanently retire from the bench, (2) never again hold any judicial office in the State
10 of New Mexico, and (3) receive a formal reprimand from this Court. We have
11 accepted all of the terms of the consent to discipline and issue this formal reprimand.

12 (3) Respondent has admitted that on February 16, 2011, he was driving a vehicle
13 in Albuquerque, New Mexico under the influence of intoxicating liquor.
14 Respondent's alcohol concentration was greater than eight one-hundredths within
15 three hours of driving the vehicle and the alcohol concentration resulted from alcohol
16 consumed before or while driving the vehicle. Respondent was arrested on that date
17 and charged with aggravated driving under the influence of intoxicating liquor or
18 drugs pursuant to NMSA 1978, Section 66-8-102 (2010), and reckless driving

1 pursuant to NMSA 1978, Section 66-8-113 (1987). On March 28, 2011, Respondent
2 entered a plea agreement and was convicted of driving under the influence of
3 intoxicating liquor or drugs, first offense.

4 {4} On February 16, 2011, Respondent notified the Chief Judge of the Court of
5 Appeals that he was taking leave without pay until the pending charges were
6 resolved. Two days later Respondent and the Commission filed a joint stipulation to
7 temporary suspension with this Court. We entered an order temporarily suspending
8 Respondent without pay until further order of the Court.

9 {5} Following his guilty plea, Respondent has admitted that his actions in driving
10 under the influence of intoxicating liquor constitutes willful misconduct in office,
11 giving rise to this Court's authority to impose discipline on him pursuant to Article
12 VI, Section 32 of the New Mexico Constitution. Specifically, Respondent has
13 admitted that his conduct violates Code of Judicial Conduct Canons 21-100
14 (upholding the integrity and independence of the judiciary), 21-200(A) (requiring that
15 a judge shall "act at all times in a manner that promotes public confidence in the
16 integrity and impartiality of the judiciary"), 21-300(B)(2) ("[a] judge shall be faithful
17 to the law"), and 21-500(A)(1)-(4) (requiring a judge to conduct extra-judicial
18 activities to minimize conflict with judicial obligations). For the following reasons,

1 we agree with Respondent's admissions.

2 (6) We are all too familiar with the public's growing concern about individuals
3 driving while under the influence of alcohol. Every day in courts throughout this
4 state, judges are called upon to pass judgment and make rulings regarding driving
5 while intoxicated (DWI) cases. As an example, for calendar year 2010, 17,827 DWI
6 cases were adjudicated in New Mexico courts. *Sixth Annual Statistical Report on*
7 *DWI Court Dispositions in New Mexico, April 2011*. Without belaboring the details,
8 in 2004 two judges resigned their positions because of their convictions for driving
9 under the influence of intoxicating liquor or drugs. On June 16, 2004, this Court
10 issued Order 04-8200, *In the Matter of Reporting Judicial Misconduct Involving*
11 *Unlawful Drugs*. In that order we emphasized that "public confidence in the integrity
12 and impartiality of the judiciary depends on a judge's respect for and compliance with
13 the law *at all times*." In the same order we encouraged any judge, employee of the
14 judiciary, or lawyer who has a good faith basis to believe that a judge is abusing
15 alcohol to report such belief to the Lawyer Assistance Committee hotline. Since then
16 we have worked to create the Lawyer and Judges Assistance Committee and have
17 worked with the State Bar of New Mexico to prepare a digital video titled "Who
18 Takes Care of Those Who Take Care?" which is available on both the New Mexico

1 judiciary and State Bar web sites. The video is intended to offer advice in the
2 detection of alcohol abuse and to explain how this important committee operates.
3 Our purpose in encouraging such reporting is to also encourage members of the
4 judiciary to seek appropriate help for alcohol and/or substance abuse problems before
5 such abuse affects judicial performance or diminishes the public's confidence in the
6 judiciary.

7 (7) The public's confidence in the judiciary should not be trivialized, inasmuch as
8 deference to the judgments and rulings of courts depends upon public confidence in
9 the integrity and independence of judges. We reject any implication that matters in
10 one's personal life that legitimately reflect upon a judge's professional integrity
11 cannot erode public confidence, and therefore are immune from discipline. A citizen
12 who serves as a member of the New Mexico judiciary is charged with the
13 responsibility of conforming to a higher standard of personal behavior than the
14 ordinary citizen. *In re Romero*, 100 N.M. 180, 183, 668 P.2d 296, 299 (1983) ("The
15 conduct prescribed for judges and justices is more stringent than conduct generally
16 imposed on other public officials."). A judge's conduct of personal behavior must
17 be beyond reproach. Improper conduct which may be overlooked when committed
18 by the ordinary citizen, or even a lawyer, cannot be overlooked when it is committed

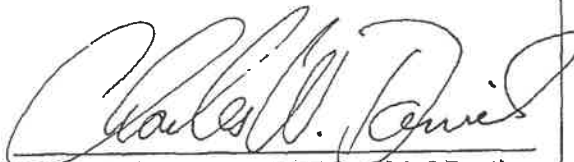
1 by a judge. By conforming their behavior to the highest societal standards, judges
2 fulfill their obligations to uphold the integrity of the judiciary and promote the
3 public's confidence in our justice system. We agree with Respondent's assessment
4 that it would be difficult for the public to repose this confidence in a judge who has
5 been convicted of driving under the influence of alcohol. *In re Garza*, 2007-NMSC-
6 028, ¶ 17, 141 N.M. 831, 161 P.3d 876 ("Citizens appearing before a judge who is
7 known to have used illegal drugs while serving as a judge would be unable to avoid
8 feeling the subjects of hypocrisy and, consequently, respect for the judiciary would
9 be diminished.").

10 {8} Accordingly, despite Respondent's impeccable job performance history, we
11 accept his permanent retirement and issue this formal reprimand as discipline in this
12 matter. The purpose of disciplining a judge who has willfully violated a Judicial
13 Canon is to reaffirm and restore, when necessary, public confidence in the
14 administration of justice and to preserve the integrity and independence of the
15 judiciary. The discipline must be designed to recognize publicly that there has been
16 misconduct that is neither permitted nor condoned. It must be sufficient to deter the
17 judge from repeating such conduct and must discourage others from engaging in
18 similar conduct. The discipline we impose here is not intended as retribution.

1 Instead, it is calculated to inform the public and all judges, ourselves included, of the
2 importance of the function performed by judges in a free society. The consent to
3 discipline in this case satisfies each of these criteria.

4 {9} For the foregoing reasons, we accept the consent to discipline. Respondent
5 shall permanently retire as a judge of the New Mexico Court of Appeals effective at
6 the close of business on June 1, 2011. Upon his retirement, Respondent shall never
7 again hold, become a candidate for, run for, or stand for election to any New Mexico
8 judicial office in the future. Respondent shall never seek, accept appointment to, or
9 serve *pro tempore* for any New Mexico judicial office in the future. "New Mexico
10 judicial office" includes the positions of judge in municipal court, probate court,
11 magistrate court, metropolitan court, district court, and the Court of Appeals, and
12 justice of the Supreme Court.

13 {10} **IT IS SO ORDERED.**

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CHARLES W. DANIELS, Chief Justice

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PATRICIO M. SERINA, Justice

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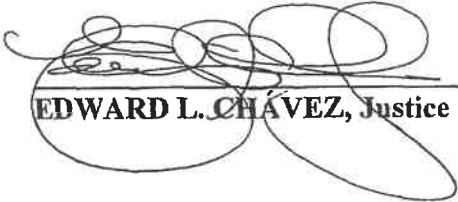
PETRA JIMENEZ MAES, Justice

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RICHARD C. BOSSON, Justice

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EDWARD L. CHAVEZ, Justice